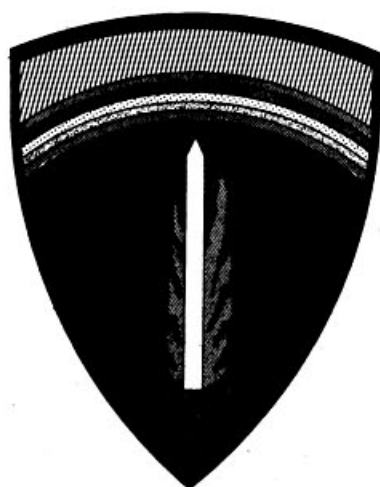


OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)

**PROPERTY CONTROL
IN THE U.S.-OCCUPIED AREA OF GERMANY
1945 - 1949**



**SPECIAL REPORT OF THE
MILITARY GOVERNOR**

JULY 1949

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SUMMARY

The initial phase of the Property Control Program entailed the locating and placing under control of various specified categories of properties in order that they might be properly safeguarded and administered. Such control also served as an anti-inflation measure inasmuch as speculation in such property was not encouraged. The balance of the Property Control Program was devoted to policy determinations providing for the release of properties to the rightful persons.

In line with Military Government policy of transferring greater responsibility to German governmental authorities, Property Control responsibility for custody and administration, as provided for in Military Government Regulation Title 17, was transferred to German Land (state) governments during the latter half of 1946. 1/ Special safeguards were provided for properties of United Nations and neutral owners and those properties in the "duress" categories. The German agencies were under the direct supervision of Military Government authorities.

The magnitude of the task performed by Property Control is best illustrated by a few statistics. During the entire Property Control Program 153,759 properties, with an estimated value of RM 13,745 million, were taken into custody; 115,501 properties, valued at RM 11,304 million, have gradually been returned to their rightful owners or successors in interest. The peak was reached on 28 February 1948 when 107,146 properties, valued at RM 11,667 million, were held under control. Custodian cash balances and Property Control cash accounts amounted to approximately RM 1,500 million as of 31 August 1946. These figures do not include installations used by occupation forces, works of art and cultural objects, foreign exchange assets, and other properties which were blocked but not under Property Control. As of 1 July 1949, there remained under control 38,258 properties valued at RM 2,441 million, which for the most part cannot be released from control until a final determination has been made, either by the denazification tribunals with respect to the 3,391 properties belonging to Nazis, or by the Restitution authorities under Military Government Law No. 59 with respect to the 30,333 properties in the "duress" category.

In June 1947 the emphasis changed from the first phase (that of locating and adequately protecting properties) to implementing and carrying out the second phase (release of properties from control). In June 1947 a program was announced providing for the decontrol of properties belonging to citizens of United Nations and neutral nations (except Spain and Portugal). This program was later extended to former enemy nations with whom peace treaties have been signed.

Control Council Directive No. 50 and Military Government Law No. 58 have established the procedures whereby property of Nazi organizations are being transferred to Land governments or to certain democratic organizations. The properties of individual Nazis are being released from control in accordance with existing denazification procedures. Properties of the Reich were disposed of in accordance with provisions of Military Government Law No. 19. "Duress" properties will be held pend-

1/ In the early part of 1946 the Military Government Property Control organization consisted of 298 U.S. personnel, supported by 2,176 German civilians. With the transfer of certain responsibilities to German authorities, Military Government personnel was gradually reduced and a large part of the burden was assumed by the German Property Control offices at Land level, which consisted of 4 LCAH ((German) Land Civilian Agency head) offices and 240 German Kreis (county) Property Control agencies employing 3,053 German civilians. These figures do not, of course, include the 80,000 odd Property Control custodians. As of 1 July 1949, the German agencies had in their employ approximately 2,500 people. As of 1 July 1949, there were 40 U.S. civilians engaged in Property Control activities, assisted by approximately 300 German civilians.

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ing final adjudication of the case as provided for in Military Government Law No. 59. Properties taken under control as "duress" properties for which no claim has been filed will be released from control pursuant to Military Government directives to be issued in the future.

On 1 July 1949 Military Government Property Control Offices were completely liquidated. Residual Property Control duties were in large part transferred to a Central German Property Control Coordinating Committee composed of the four ICAHs. Those Property Control functions which could not be transferred to the Central Committee were made the responsibility of the Military Governor's Economics Adviser.

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INTRODUCTION

In August 1944 there was established in England an organization known as the United States Group Control Council (USGCC). It was composed of various divisions corresponding to the divisions of Military Government and the purpose was to plan the functions of the occupation of Germany. Within the USGCC was a division called "Reparations, Deliveries and Restitutions (RD&R)," which included the functions assumed later by Property Control. After the capitulation of Germany, RD&R Division was split into the Restitution Branch, the Reparation Branch, and Property Control, which was first formed as a special branch of the Economics Division, but which was later taken over by the Finance Division. In March 1948, the Finance Division was dissolved, and the Property Control Branch became a branch of a new division known as the Property Division.

Property Control measures were aimed at the implementation of denazification and demilitarization measures in Germany. Property Control custody was used to remove designated persons and organizations from positions of importance and power to further the democratization of Germany. Custody was necessary to protect certain properties pending ultimate disposition.

The basic authority for the control of property in Germany is contained in JCS (Joint Chiefs of Staff) 1067/6 (para 48 e) 1/ which directs the Zone Commander to "impound or block" certain specified categories of property. They include the properties of the following persons and organizations:

The German Reich and its political subdivisions, agencies, or instrumentalities;

The Nazi Party and its affiliated organizations, its officials, leading members, and supporters;

Absentee owners of non-German nationality, including United Nations and neutral governments and Germans outside of Germany.

The Zone Commander was also required to block all property which was transferred under duress or wrongful acts of confiscation, disposition, or spoliation, and works of art or cultural material of value or importance, regardless of ownership.

As the U.S. Army entered Germany, Military Government Law No. 52 2/ was issued. The provisions of this law were substantially the same as the provisions of JCS 1067/6. It declares subject to seizure or possession of title, direction, management, supervision, or otherwise, all categories of properties enumerated in JCS 1067/6. Law No. 52 does not require Military Government to take control over the property. It simply establishes the right of Military Government to do so. The only law which requires that control be established over any such property is Control Council Law No. 2, 3/ which is similar in terms to the provisions of JCS 1067/6 (para 6 d), which directs that all property owned or controlled by the Nazi Party, its formations, affiliated associations, and supervising organizations be taken under Military Government control "pending a decision by the Control Council or higher authority as to its ultimate disposition."

Property Control in the U.S.-occupied Area of Germany became effective with the posting of Military Government Law No. 52 as the armies moved through Germany, starting in Aachen on 18 September 1944. Property Control was, at that time, fully administered by the Military. As stated in USFET (U.S. Forces, European Theater) Directive of 7 July 1945, 4/ which later served as basis for Military Government

1/ See Annex II, p. 46.

2/ "Blocking and Control of Property;" see Annex IX, p. 65.

3/ "Providing for the Termination and Liquidation of the Nazi Organizations;" see Annex XVI, p. 85.

4/ "Administration of Military Government in the U.S. Zone of Germany;" see Annex III, p. 48.

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Regulation Title 17 (MFR 17), 1/ all properties subject to control were blocked and frozen as a necessary step toward the enforcement of the policy of denazification, the principles of demilitarization and deindustrialization, and the program of restitution and reparations.

The operating procedure and mechanics of Property Control were stated in the Handbook for Military Government (Rev. 1, 20 December 1944). Pertinent sections are:

(384.) In exercising Property Control functions, the role of the Military Government officer is that of a Military Government official, not that of a receiver or trustee in the British or American sense. He should do what is reasonable in the circumstances. No personal liability will attach to any Military Government officer for acts which are performed, permitted, or omitted, in good faith, relative to the control or administration of property.

(385.) Military Government officers are not authorized to submit to the jurisdiction of the local courts in proceedings in which Military Government or Military Government officers are, in effect, defendants. Further instructions will be issued in regard to this matter.

(386.) Military Government officers will arrange for the receipt of reports and returns required from local officials, organizations, and persons relating to property under control.

(387.) Military Government officers will at all times gather and forward to the deputy chief Property Control officer all local information relevant to the classes of property subject to Property Control. Of particular interest will be reports of cloaking activities used to disguise property acquired through duress or wrongful acts of dispossession or spoliation, or to conceal holdings of the Nazi Party and prominent members and supporters thereof.

(388.) In the event it is necessary to use force to take possession of any property or to exclude any person from it, and sufficient assistance from Military Government Public Safety officers cannot be obtained, a request should be made for the necessary aid to the appropriate Military Commander.

(389.) In the administration and operation of property taken under control, Military Government officers should not, except after consultation with the appropriate Property Control officer, lease or repair such property, nor employ agents and fix and pay compensation for any of the foregoing.

(390.) Military Government does not ordinarily take title to property taken into control. Sales may be made on behalf of the owner only if specially ordered or in cases of perishables.

(391.) Military Government officers will not enter into a contract for a term in excess of 30 days without approval from the chief Property Control officer.

(392.) Property should be entered on the Property Record (MG/PC/2) as soon as taken into control. The Record of Property Transactions (MG/PC/3) will be maintained by Military Government officers or Military Government detachments and will recite all facts and transactions that affect the property, its condition and history. Until property is entered on the Property Record by the Military Government officer and the Notice of Custody (MG/PC/1) is filed, it is not completely taken into control. It may therefore be released to its owner or his representatives without formality even though protective notices have been posted on it or have been delivered to its occupants.

1/ "Property Control;" see Annex VI, p. 52.

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(393.) When a going concern is taken over, Military Government officers should consult with any Military Government functional specialist officers interested in the functioning of such concern. When a going concern is taken over, Military Government officers will give to the person or persons in charge Property Control Letter of Instruction No. 1.

(394.) Operating agents and custodians shall be instructed to keep proper and appropriate accounts so that reports and accounts may be rendered to owners or to higher authorities. Where Military Government takes control of any business or undertaking which already has a satisfactory accounting system in operation, the existing accounting system will be continued. If the Military Government officer finds an inadequate accounting system in an undertaking under control, a report thereof will be made to the appropriate Property Control officer.

(395.) Funds received or produced by the operation of the property may be retained in such accounts or depositories as are maintained on its behalf, subject to directions of the appropriate Property Control officer. Large accumulations of funds by such undertakings will be reported to the appropriate Property Control officer.

(396.) Custodians appointed to operate any property shall have no power, without the consent of higher authority, to alter the nature of a business, or to sell, liquidate, incur or obligate the property or any part of it beyond the ordinary course of business.

(397.) Fees paid to custodians, and allowances made to owners or their dependents, out of such properties may be continued, but may not be reduced or increased without prior approval from the chief Property Control officer. When paid they shall stand as a charge against the property and its owner.

(398.) Under no circumstances will persons who have been removed from any office or position because of the Supreme Commander's policy of removal of active Nazis and ardent Nazi sympathizers be employed or used in any other way in connection with the Property Control Program of Military Government.

The report which follows is a brief history of the Property Control Program of the U.S. Military Government as administered in the U.S.-occupied Area of Germany. It indicates the policies, procedures, and practices followed, and the special steps taken to protect the properties under control and return them to their rightful owners, or ultimate recipients. In the annexes are cited the basic authorities and pertinent legislation which formed the basis of the Property Control Program.

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FUNCTIONING OF PROPERTY CONTROL

In occupations prior to World War II, Property Control was generally limited to enemy war materials confiscated as booty, and certain other limited responsibilities with respect to purely public properties. There was, therefore, little or no precedent for exercising controls over all kinds of property in Germany.

"Property Control," as it is known today, has a special meaning in Military Government. It denotes the establishment and maintenance of control, pending ultimate disposition, over specified categories of property of persons and organizations described and defined in Military Government Law No. 52 ^{1/} and the organizations set forth in the Appendix to Control Council Law No. 2. ^{2/} The control exercised in a given case varies; it includes use, possession, custody, occupancy, protection, maintenance, conservation, and supervision.

The major categories of properties are:

- Properties of United Nations, neutral, and other absentee owners;
- Properties of the former German Reich, German states, etc.;
- Properties of NSDAP members (Nazi Party members);
- Properties of former Nazi Party organizations;
- Properties of I.G. Farben;
- Properties claimed by persons who lost the property under duress.

The mission of Property Control was to locate properties of certain categories indicated in Military Government Law No. 52, take them into custody, preserve them, operate them in most instances, and dispose of them in accordance with existing Military Government regulations, laws, directives, and other measures.

LOCATING PROPERTIES TO BE TAKEN INTO CUSTODY

Properties falling into the categories specified in Military Government Law No. 52 have only one thing in common - they are all located in Germany.

Properties were taken into custody on the basis of information obtained by exploitation of numerous records, lists, etc. and also on the basis of decisions made by Property Control officers in the field.

Use of U.S. Treasury Department Records in Locating Properties

The Foreign Funds Control Division, U.S. Treasury Department, made available to Property Control summaries of reports of U.S.-owned or -controlled property within Germany. These lists served as "check lists" in connection with the Property Control Program.

Lists Forwarded by American Consulate General

The American Consulate General sent lists of hundreds of persons who owned or claimed properties and whose "requests for investigations of properties in Germany" were forwarded to the property controllers in the field for investigation, reporting, and taking into custody if warranted.

Direct Inquiries from Owners

Inquiries were received at Property Control offices at the rate of between 500 and 1,000 per month from owners of German property from all parts of the world,

^{1/} See Annex IX, p. 65.

^{2/} See Annex XVI, p. 85.

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requesting information concerning the status of their properties and requesting protection of their personal and real property located in the U.S.-occupied Area of Germany. Such letters were acknowledged, field investigations made, Property Control action taken where warranted, and reports were submitted to the owners.

Use of German Officials

Property Control officers in the field instructed German district officials to draw up lists of persons who came under Military Government Law No. 52. These lists were then checked and Property Control action taken where appropriate. The services of suitable and politically acceptable German officials or civilians were also obtained to furnish technical aid in performing the Property Control function. These Germans were closely supervised by Military Government officers or Property Control officers, and their work included locating all Grundbuecher (Land Registers), Handelsregister (Commerce Registers), Einkommensteuerakten (income tax files), and other property records in the Kreis (county). It was the duty of these German officials to search out and trace title in records above listed and to aid in making comprehensive searches and surveys on all properties of interest to Property Control.

Micro-film records of the Reichskommissar's Office also proved extremely valuable in locating properties of United Nations' nationals.

German Control of Enemy Property -- The Reichskommissar's Office 1/

During the war years, 1939 to 1945, the German Government controlled the property of enemy aliens through the Reich Commissioner for the Handling of Enemy Property (Reichskommissar fuer die Behandlung Feindlichen Vermoegens). In the definition of enemy alien property the word "enemy" was construed to mean enemy states, nationals thereof (either natural persons or legal entities) having either their domicile or main branch in the territory of any enemy state or incorporated under the laws of an enemy state, persons having their habitual residence in an enemy state, and all persons other than those previously mentioned in respect to any enterprise which they may have conducted from an enemy state.

The Reichskommissar's Office attempted to operate within the framework of the German law, and there appeared to be a strict interpretation of the German Alien Property Law. The Reichskommissar apparently took the position that he was a trustee for the property of the enemy alien -- that he must administer it for the benefit of the owner -- that at the termination of the war, or sometime thereafter, he would relinquish control and the property would be returned to the owner with a proper accounting.

A custodian (Verwalter) of an individual property or business could be appointed by the Reichskommissar, of which there was one at each Oberlandesgericht (appellate court). There was no regular pool or register of available custodians; however, the type of man usually chosen was a German director or manager of the firm, a lawyer, or other responsible individual. The custodian, after appointment, made a report to the Reichskommissar once every six months. On the appointment of a custodian by the Reichskommissar, his name was entered in the Handelsregister. No entry, however, was usually made in the Grundbuch with respect to properties placed under a custodian, as his appointment was only considered temporary.

The Curia-Absentis Law

The Curia-Absentis Law is an old law which provides for the appointment by the Amtsgerichtsrat (district court official) of a Pfleger (custodian) of a property or concern of which the owner is absent. Once appointed, the Pfleger, like the Verwalter in the case of enemy property, was permitted to carry on all normal transactions in connection with the property. Periodical reports (usually every six

1/ German Alien Property Custodian Office.

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months) were made to the Amtsgericht (district court). Where a firm or company was involved, the name of the Pfleger was entered in the Handelsregister.

Powers of Custodians to Charge Property

Neither the Verwalter nor the Pfleger were permitted to mortgage landed property on their own initiative, but with the approval of the Reichskommissar (in the case of the Verwalter), he could execute a mortgage; in the case of a Pfleger, the consent of the Amtsgericht was necessary (e.g., to secure a mortgage from a bank required to finance essential repairs), and such mortgages were then registered against the property in the Grundbuch.

The Reich Ministry of Economics (Reichswirtschaftsministerium), on the other hand, representing the Nazi Party interests, took the attitude that enemy alien property was forfeited to the state, and, through the agencies of the SD (Sicherheitsdienst, Security Service) and the Gestapo, much property was seized and confiscated which should have, under German law, been administered by the Reichskommissar. Investigations disclosed that the Reichskommissar's Office made an attempt to appoint trained, competent, and honest administrators for alien property. However, the Security Police were charged with screening the prospective administrators for their "political reliability," and no appointment could be made without approval from that office.

The property of enemy aliens was uncovered by returns from local tax-gathering agencies. It made no difference whether or not the Reichskommissar took formal custody of the property; the property was listed in the Reichskommissar's Office files, and it was subject to custody at any time. Records as to properties taken into custody and as to those in which "enemy" interest was insufficient to justify appointment of a custodian were centralized into two main divisions of the Reichskommissar's Office. Real property, patents, and shipping were in one division, while the records as to all other properties, such as industrial and financial enterprises, were in another division. No attempt was made in either division to exercise direction over the operation of any properties other than to formulate policy, nominate custodians, and direct the removal of custodians unsatisfactory for any reason.

By 1 March 1945, the Reichskommissar's Office had taken under administration property in excess of RM 3,500 million.

Status of American-Owned Property in Germany
As of 1 March 1945

Type	Total	Million RM	
		Administered by German Reichs- Kommissar's Office a/	Not Administered by German Reichs- Kommissar's Office a/
TOTAL	1,211.4	944.9	266.5
Industry and Commerce	884.4	758.3	126.1
Banking and Insurance	92.2	92.1	0.1
Miscellaneous	159.8	31.8	128.0
Real Estate	75.0	62.7	12.3

a/ German alien property custodian.

Ordinarily movables were not taken into custody unless they were of exceptional value or were associated with other property under custody. In the case of real estate, the minimum value was first set at RM 10,000 before custody would be taken, but because of

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the pressure of work in the Reichskommissar's Office the minimum valuation was later set at RM 60,000. In general, business enterprises in which the enemy interest was less than 50 percent would not be taken into custody. However, in many cases where the business was large or important the 50 percent interest rule was disregarded.

Use of Reichskommissar's Records by U.S. Property Control Authorities

From the above, it can be seen how important it was to scrutinize carefully the records of the Reichskommissar's Office. From these records, lists of properties were prepared for distribution to Property Control officers to assist them in the location of actual properties. First priority was given to the preparation of lists of properties in which United Nations' interest exceeded 50 percent. This was followed by the assembly of all minority interests in German property. A more difficult task was that of tracing properties which had been transferred under questionable circumstances.

During the early period of Property Control operations, letters of inquiry from nationals of United Nations and neutral nations continued to pour in. On the basis of these letters and other information, properties in this category were taken into custody.

TAKING PROPERTIES INTO CUSTODY -- GENERAL PLAN

Property Control officers were assigned to perform certain supervisory, advisory, and local functions in connection with Property Control. In the initial period, Property Control officers were assigned to areas to act as advisers and consultants to Military Government officers. Where sufficient PCO's were available in this early period, they were also immediately assigned to Stadtkreise to perform local Property Control functions. Where possible, PCO's were assigned to take over all local Property Control functions exercised by Military Government officers in the initial period. During the initial period all records, reports, etc., were forwarded by Property Control officers to the deputy chief, Property Control officer, who maintained centralized files of property and essential accounting records.

Properties were taken into custody when necessary to safeguard the property. In other cases, where properties were not taken into custody, it was made clear to any interested persons that properties subject to Military Government Law No. 52, ^{1/} whether or not taken into custody, were blocked by virtue of Military Government Law No. 52, Article I. Properties were also taken into custody to assure the continued operation of the property. This was of particular importance where certain properties were employed in the production of articles useful to the Armed Forces of the United Nations, or essential for civilian consumption. Continued operation was, in many cases, also desirable to prevent increased unemployment.

Whenever it was necessary to establish control over property, Property Control Letter of Instruction No. 1 was issued and posted. This letter read in part as follows:

"TO:

and all officials and employees of said business enterprise.

"1. This business enterprise is one of those taken into control by Military Government pursuant to the Blocking and Control of Property Law (No. 52), which has been published and is again called to your attention. You are, of course, obliged to obey all other laws and orders or instructions having the effect of law, both of Military Government and Germany, applicable to the conduct of this business.

^{1/} See Annex IX, p. 65.

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"2. Unless otherwise directed or prohibited, transactions ordinarily incidental to the normal conduct of business activity in Germany may be engaged in by this enterprise. The responsibility for the conduct and operation of such business enterprise rests entirely in it and all officials and employees connected with it. No responsibility for operations as a going concern attaches to Military Government by reason of the inclusion of this business enterprise as one of those taken into control by Military Government."

Inventories of movable items were taken, followed later by a more complete inventory and investigation, in order to facilitate subsequent reporting pertaining to the property.

Appointment of Custodians

When custody was taken, a custodian (approved by Military Government) was appointed and made responsible for operating and preserving the assets of the property. Numerous difficulties were experienced in the early days of Property Control in getting suitable custodians for operating businesses. Custodians were, for the most part, appointed from a list selected by the Buergermeister (mayor), and only appointed after being certified by the U.S. Counter Intelligence Corps. Owners of properties were, in many instances, asked to recommend custodians. Where such recommendations were made, the individuals were immediately checked and approved if clear of Nazi affiliations. In the latter part of 1946, when responsibility for custody and administration of properties was transferred to German authorities, the responsibility, in the first instance, for the appointment of custodians was also transferred to said authorities.

Appointment of Zonal Custodians

Whenever it appeared that the centralized administration of an operating property having several branches throughout the U.S.-occupied Area would result in greater over-all efficiency, it was made the responsibility of the Land Property Control chief (in the case of the United Nations and neutral properties) in whose Land the main office or most important unit was located, to take the necessary steps in consultation with other Land Property Control chiefs, to appoint a zonal custodian for the entire enterprise. The zonal custodian had the same authority with respect to the enterprise as any other custodian appointed pursuant to Military Government Law No. 52. He was considered the "general manager." He could not, however, remove or hire sub-custodians without the concurrence of the appropriate Land Property Control chief. Zonal custodians were furnished copies of: Military Government regulations, Title 17; Property Control accounting and auditing procedures, pertinent Property Control circulars, etc., and instructed to administer the property accordingly. Necessary explanations and instructions to zonal custodians were given by responsible Land Military Government Property Control officials. The zonal custodian rendered consolidated reports for the entire enterprise. To a very limited degree, a similar procedure was used in a case of German properties under control. In such instances, however, recommendations of the German Land Civilian Agency heads also required approval of Military Government Decartelization authorities.

Appointment of Inter-Zonal Custodians

The desirability of having inter-zonal custodians appointed for United Nations and neutral properties having branches in more than one zone soon became apparent. A procedure was established by the U.S. and U.K. Military Governments whereby such custodians could be appointed with respect to properties lying in the combined US/UK Zones. It was agreed that there would be a zonal custodian in each of the two zones and that the zonal custodian in the zone having the main office would act as inter-zonal custodian. In the absence of the main office being located in either zone, the zonal custodian of the zone having the most important unit of the enterprise became the inter-zonal custodian. Custodians were appointed by local Property Control officers for the branches or subsidiaries of the parent firm. Where branches existed in more than one Land in the zone and the need for a zonal custodian was apparent, such custodians were appointed. Individual reports of custodians were not required where a zonal

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custodian existed. Zonal custodians consolidated the reports in their zone and then forwarded said zonal report through the offices of the appropriate Military Government to the inter-zonal custodian for further consolidation. With respect to management policies, zonal custodians were permitted to communicate with each other. However, no major action could be taken by zonal custodians on instructions from the inter-zonal custodian without first obtaining the approval of the appropriate Military Government Property Control authorities. The inter-zonal custodian had to be approved by both the U.S. and U.K. senior Property Control authorities. By this procedure a more uniform and efficient management was obtained.

In a few instances, similar arrangements were made with French Property Control officials.

Use of German Property Control Officials as Custodians

As a rule, German Property Control officials were not permitted to act as custodians. This rule, however, was later modified in special cases where necessity for modification was proven and approval of the appropriate Military Government Land Property Control chief obtained. The only exceptions made were in cases where numerous small properties were under control in a particular Kreis, the properties did not require the services of a full-time custodian, and were not large enough to pay for such services. In such instances, the CAH (Civilian Agency head) was appointed custodian for a group of small properties and paid a minimum fee.

Removal of Custodians

As indicated in the foregoing pages, custodians had to be impartial, politically acceptable, efficient, honest, and cooperative. Once they were appointed, it was the policy of Military Government not to remove them providing they had the above mentioned qualifications. Whenever it was discovered that custodians did not measure up to the standards indicated above, they could be removed for cause; in the case of United Nations and neutral properties, on instructions and approval of the Military Government Land Property Control chief; in the case of German properties, upon recommendation of the German Land Property Control authorities.

SUPERVISION OF PROPERTIES UNDER CONTROL

After the property was located and taken into custody, it was necessary to establish a system of accounts and audits so that supervising authorities would be in a position to measure the efficiency of operations by various custodians and to take prompt and effective remedial action where required. This was all, of course, in the interest of preserving the property until it could be transferred to the ultimate recipient without substantial depletion of assets.

Property Control Accounting System

During September 1945, the Property Control accounting system was changed from a decentralized to a centralized system, and all Property Control records were consolidated in one office, namely, that of the chief Property Control officer, OMGUS. 1/

It became apparent early in 1946, however, that the centralized system of accounting was administratively unworkable, cumbersome, and impractical. The time lag between preparation of reports in the field and receipt by OMGUS was in many instances as much as six months. Since Property Control responsibilities were to be transferred to German authorities in the latter half of 1946, a program was instituted providing for the decentralization of the accounting function to Land level. Each Land Property Control chief was instructed to set up an accounting section and to take steps to train German employees so that the transfer of authority could be accomplished with a

1/ Office of Military Government for Germany (U.S.).

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minimum of confusion. After transfer of responsibility to German authorities, the accounting function became the joint responsibility of the Land Property Control chief and the German Land Civilian Agency heads. The benefits of this change became immediately apparent; more reports were received during shorter intervals.

From 1 July 1945 until early 1946, no effective auditing program was in operation. In July 1946, a standard form for reporting receipts and disbursements of properties, other than business enterprises, was devised and distributed. In October 1946, standard profit and loss statement and balance sheet forms were devised for trading and manufacturing enterprises, and directives which prescribed the use, disposition, and review of these standard forms were promulgated. In general, German Land Civilian Agency heads were made responsible for the reviewing of financial statements on German properties, with over-all supervision remaining the function of the Land Property Control chiefs. The detailed review of financial statements pertaining to properties of United Nations and neutral nationals, however, remained the responsibility of the Land Property Control chiefs.

To promote efficiency the requirement for monthly statements from custodians was discontinued; quarterly and semi-annual statements were substituted. Due to the shortage of independent public accountants in the various Laender, the timely submission of annual certified statements was extremely difficult. In addition to the fact that numerous public accountants were disqualified because of political unreliability, additional difficulties arose from the fact that public accountants must spot check inventories at the year end in order to be able to certify their statements. Most business enterprises have a fiscal period coinciding with the calendar year with the result that the limited number of qualified accountants could not prepare the necessary number of statements on time. Therefore it was decided to instruct all available public accountants to make spot checks of the inventory at the earliest possible time and that unaudited annual statements were to be submitted on the prescribed date. Audited statements for the same year were to be submitted during the following six months. This procedure permitted available accountants to spread their work out and proved most satisfactory.

To facilitate the review of operating statements submitted, instructions were issued to the Land Property Control offices to determine speedily those properties operating at a loss and those properties operating at a profit. A large volume of reports was rendered. However, by this device all reports pertaining to property operating at a loss were segregated and given highest priority. Such statements were reviewed and analyzed. Civilian Agency heads were called upon to explain the causes for the losses and were instructed to take remedial action. Where required, recommendations were made by the office of the chief Property Control officer. In this manner, approximately 25,000 financial reports of individual properties were received and checked during the latter half of 1946 by the accounts and audit section, office of the chief, Property Control Branch, OMGUS. This does not take into account a much greater volume handled by the various Land Military Government and German Property Control agencies. Copies of many of these reports were forwarded to owners in Allied and neutral countries.

Inspections of Properties Under Control

In addition to reviewing financial statements currently, Land Property Control chiefs and Land Civilian Agency heads were required to make an inspection, at least once a year, of each property under control. The scope of such inspection depended upon such factors as whether it was a business enterprise, whether it submitted correct financial statements currently, whether the property was operating at a loss, etc.

As a result of approximately 3,500 formal inspections of property by field representatives during the first three months of 1948, 54 custodians were recommended for removal. The most prevalent grounds for removal of custodians were: inefficiency, black market activities, political unreliability as indicated by falsification of fringebogen, failure to comply with Military Government directives, embezzlement, il-

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legal sale of assets, and gross negligence. In many instances prosecution of custodians for violations listed above resulted in large fines and prison sentences. It was felt that the inspection program of properties under control was most effective and that actual visitation and physical audit was an excellent means of ascertaining proper management and operation. A routine inspection in Augsburg, for example, indicated that the custodian permitted the owner of the firm to withdraw RM 50,000 from the firm. This, of course, was contrary to Military Government directives. In addition, it was found that the custodian made a loan of RM 30,000 to himself, with which he established another business. Fortunately, the property controller was able to have the RM 50,000 returned to the firm, the business purchased with the RM 30,000 was taken into custody on the "following the assets theory," and the custodian was removed and replaced by an impartial person.

Inspection of German Civilian Agency Offices

German Civilian Agency offices were examined by COMUS Property Control officials to determine whether the properties under control were properly managed and that records were available, giving adequate details pertaining to operating properties, and whether a systematic inspection of such properties was being made. Business analysts were called upon to submit formal reports pointing out discrepancies, weaknesses, etc. and to make suggestions for corrective action. As a general rule, it was found that the Civilian Agency head offices were efficiently managed and that standard operating procedures pertaining to routing of mail, reports, checking of financial statements, etc. were being followed. It also appeared that all CAH offices maintained complete records pertaining to custodians. Considering the handicaps under which the Civilian Agency offices operated, an excellent job was done. Many CAH offices lacked essential office equipment. In addition, in the winters of 1946 and 1947 many offices had no heat, and work could be performed only on a part-time basis. During these two years many CAH offices had no electrical fixtures, and employees worked in overcrowded quarters.

Land Property Control chiefs were also instructed to make periodic inspections of all German Civilian Agency offices of which there were approximately 240 (one in each Kreis). These inspections proved extremely helpful. Such questions as sufficiency of properly trained personnel, adequacy of office equipment and space, and review of administrative policies and procedures were discussed; files pertaining to custodians were reviewed; CAH accounting procedures were checked to ascertain that proper tickler systems were being used to assure timely submission of reports; files were checked to see if proper approvals were obtained before extraordinary expenditures were incurred by custodians.

Treatment of Surplus Cash

An additional safeguard was provided in the treatment of cash held by various custodians in excess of their normal needs. Instructions were issued providing that all custodians were to transfer to central cash accounts under the direction of the Land Property Control chief (IPCC) (in cases of United Nations and neutral properties) and the Land Civilian Agency head (LCAH) (in cases of German properties) all cash exceeding six months normal cash needs of the business. The provision was also made that in the event that the custodian required such cash for exceptional expenditures, application was to be made to either the IPCC or the LCAH.

Installation of Machine Accounting System in LCAH Offices

To assist in the timely reporting of Property Control transactions, a machine accounting system was installed in the various LCAH offices. This system was invaluable in the speedy compilation of lists of properties under control. The advantages of such a system in the saving of time and expense are obvious.

RECOMMENDATIONS OF THE PROPERTY DISPOSITION BOARD

On 26 March 1946, a report was issued by a previously appointed Military Government Property Disposition Board, which surveyed the entire situation and made

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numerous specific proposals for the orderly disposition of properties under control. The report of the Property Disposition Board was concerned with ultimate disposition of categories of properties, regardless of the agency responsible for operational control. The properties included industrial plants, housing projects, bank accounts, gold bullion, jewels, paintings, insurance companies, radio stations, newspapers, publishing houses, and income derived from some of these units. With the minor exception stated elsewhere, Military Government regulations existing in March 1946 did not authorize the release of any property from control except on account of reparations and restitutions, for use by the occupying powers, or by order of higher headquarters under limited licensing provisions.

After a careful study of the problem, Military Government directed the Laenderrat ^{1/} to develop plans for assuming custody and supervision of most of the property under Military Government control (excluding, however, properties of the Reichsbahn, the Reichspost, and the Reichsbank, external assets, foreign exchange assets, and I.G. Farben holdings). These plans were completed, approved by Military Government, and put into effect by the middle of June 1946, when most properties under control were transferred to German authorities for custody and administration, subject to Military Government for policy direction. Properties belonging to any United Nations and neutral nationals were still subject to special control measures and supervision by Military Government authorities to insure full protection of such countries' interests in Germany.

It was the policy of the occupation to maintain necessary controls and at the same time to place responsibility upon the German people and approved German agencies and institutions to the greatest extent possible.

The problem was mainly one of interim custody pending the time when the individual owners or ultimate recipients would be able to manage their properties. In the case of U.S. nationals, the U.S. "Trading with the Enemy Act" and, with respect to all absentee owners, the existing travel and communications restrictions presented obstacles. The Property Disposition Board recommended that responsibility for protecting the property should be placed upon the Laender, that they should be required to maintain complete records of such properties, and that Military Government should provide the necessary inspection and supervisory machinery. Pending the formation of a central German government, it was felt that Military Government must continue to reply to United Nations nationals who requested information pertaining to the condition of their property in the U.S. Zone.

TRANSFER OF PROPERTY CONTROL RESPONSIBILITY TO GERMAN AUTHORITIES

Ever since 1 November 1945, Property Control officials had been working on a plan providing for the transfer of certain property control responsibilities to German authorities. In line with Military Government policy and the recommendation of the Property Disposition Board, the first step was taken under a directive dated 17 May 1946 and entitled "Transfer of Property Control Responsibilities in Greater Hesse and Wuertemberg-Baden to Land Ministers President." This directive authorized and directed the transfer to the respective Ministers President of responsibility for custody and administration of all property under control as provided for in MGR Title 17. ^{2/} In addition, responsibility for the program of taking into custody and the administration of property, at that time performed by Military Government under MGR Title 17, was also to be assumed by German authorities.

It should be pointed out that this program relates only to custody and administration; disposition of property, except as authorized by Title 17, also had to await Military Government authority. In addition, safeguards and certain responsibilities were retained by Military Government Land offices and the office of the

^{1/} Council of States, composed of the Ministers President of the U.S. Zone Laender.

^{2/} See Annex VI, p. 52.

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chief, Property Control Branch, in matters pertaining to properties of United Nations and neutral owners and those properties in the duress category. For example, leases, custodian contracts, certain extraordinary expenditures, required the approval of the Land Property Control chief.

In the latter months of 1946, similar responsibility was transferred to German Property Control authorities in Bavaria and Bremen.

The task of transferring the numerous files from Military Government custody to the various Land offices was completed in April 1947. Likewise, the final step was taken in the program of decentralization of the Property Control accounting functions. After April 1947, the only accounting records of properties under control which continued to be maintained by the office of the chief of the Property Control Branch were those of properties under control in the U.S. Sector of Berlin.

Another step in line with the policy of decentralization of the Property Control functions and as a result of the transfer of Property Control responsibility to German authorities was the method of handling cash belonging to properties under control. Under the centralized control in effect prior to May 1946, i.e., before transfer of operational responsibility to German civilian agencies, all surplus cash of properties was transferred to the Frankfurt account under the control of the chief, Property Control Branch. All such cash was returned early in 1947 to the Laender in which such funds originated. It was deposited, under the decentralization program, in central cash accounts under the control of the Land Civilian Agency heads (German authority) and Land Property Control chiefs (U.S. Property Control authorities), depending upon whether the cash originated from German properties or United Nations and neutral properties, respectively. The amount of cash returned to the Laender early in 1947 was in excess of RM 60 million.

LIQUIDATION PROGRAM

On 26 June 1948, a program was approved providing for the complete liquidation by 1 July 1949 of the Property Control and External Assets Branch, Property Division, OMGUS, and the Land Property Control offices.

On 1 June 1948, there were 93,496 units of property under control with an estimated value of RM 10,675 million. Included in these figures were 27,711 units of duress properties with an estimated value of RM 1,234 million. With respect to duress properties final disposition could not be made until final adjudication of the case pending before the Restitution authorities as provided for under Military Government Law No. 59. ^{1/} It was, therefore, the primary purpose of the Liquidation Program to release from control and return to the German economy, during the one year period, all other properties, namely, 65,785 units with an estimated value of approximately RM 9,500 million. The program briefly provided for an all-out effort and accelerated pace under existing programs providing for disposition of the various categories of property and the devising and promulgation of new programs where required.

^{1/} "Restitution of Identifiable Property;" see Annex XIII, p. 72.

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Properties Subject to Disposition Under the Liquidation Program

Reason for Control	Total 1 June 1948		Total 1 July 1949	
	Number of Units	Estimated Value - RM	Number of Units	Estimated Value - RM
TOTAL	65,785	9,441,114,228	7,925	1,455,169,615
NSDAP (Nazi Party) Members	39,789	2,627,930,687	3,391	391,595,570
Absentee Owners	14,530	1,678,633,416	3,048	229,230,092
External Loot	1,431	25,052,821	598	16,778,605
NSDAP Organizations	4,553	642,505,158	346	268,926,219
German State	3,987	3,127,140,884	137	289,732,947
Former IG Farben	69	350,160,961	-	-
Miscellaneous	1,426	474,394,188	405	214,743,012
Unclassified in Law 52	a/	515,296,113	a/	50,157,170

a/ Units not listed as they are included in above figures.

The Liquidation Program also provided that numerous responsibilities of the Property Control and External Assets Branch, Property Division, OMGUS, be transferred to a central German Property Control agency. Such an agency has been established in Munich; the directorate is composed of the four LCAH's in the U.S. Zone. It is their responsibility to promote uniformity of practice in the four Länder, to make recommendations to Military Government, and, in general, to continue existing Property Control policies as indicated in MGR Title 17. Requests for information pertaining to properties under control, or which were under control, are to be addressed to this organization. Military Government Property Control offices at OMGUS and Land levels have been liquidated. A small group of property specialists, as of 1 July 1949, is attached to the Office of the Economics Adviser. It is the responsibility of this group generally to supervise the Internal Restitution Program and to review recommendations pertaining to Property Control matters made by the German zonal agency.

MANAGEMENT OF PROPERTIES UNDER CONTROL

With certain exceptions, business enterprises under control were permitted to engage in all transactions ordinarily incidental to the normal conduct of business within occupied Germany. Duly appointed custodians were responsible for the management of such properties.

Payment of Pre-Surrender Debts and Taxes by Enterprises under Control

Immediately subsequent to the posting of Military Government Law No. 52 1/ and Control Council Laws No. 2 2/ and 9, 3/ the question arose as to whether or not pre-surrender debts of enterprises under Military Government control should be paid. In the early phases of the occupation various uncertainties existed such as the existence or non-existence of bank accounts, the loss of records and general uncertainty as to solvency, the lack of safeguards against assets being siphoned out of enterprises through the payment of illegitimate debts. These conditions made the policy of deferments of payments a practical necessity.

1/ See Annex IX, p. 65.

2/ See Annex XVI, p. 85.

3/ "Providing for the Seizure of Property Owned by I.G. Farbenindustrie and the Control Thereof," see Annex XVIII, p. 87.

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After more than one year from the beginning of the occupation, it became increasingly apparent that non-payment of pre-surrender debts, and in some instances taxes, contributed to economic stagnation. Numerous creditors were particularly hard hit through their inability to collect what would normally be current receivables. Municipalities, in many instances, were deprived of large tax payments. Most of the reasons for the deferment of debt payments no longer existed in June 1946. It was now possible to determine the status of cash and bank accounts, determine the financial condition of enterprises, block payments and funds where required, and establish the validity of certain claims and debts. The reason no longer existed for the freezing of legitimate debts due by solvent debtors.

There was also an increased tendency among the German population to refuse as legal tender, currency (the Reichsmark, Allied Military mark notes, Rentenbank notes) in satisfaction of debts or as consideration for transactions. To dispel all doubts, Amendment No. 1 to Military Government Law No. 51, "Currency," was issued. This provided that debts, etc. could be satisfied "upon falling due, by payment mark for mark," and that the creditor is, in all cases, bound to accept such currency at its face value in discharge of obligations. In June 1946, therefore, instructions were issued permitting custodians to pay debts which were incurred legally in the normal course of business providing there were funds available without substantially impairing working capital of operating businesses or encumbering non-operating properties. Payments to a creditor whose property was subject to Law No. 52 were to be made by direct bank transfer to the blocked account of such creditor.

The payment of pre-surrender debts of properties confiscated under Control Council Law No. 2 was prohibited. It was felt that confiscation of these properties did not necessarily involve assumption of debts. However, current obligations of such properties which were operated under the authority of Military Government were so operated, not under Article 4 of MG Law No. 52, but under Articles II and III of MG Law No. 52, which provides for the removal of the restrictions of MG Law No. 52 "when otherwise authorized" by Military Government. The use of such properties was restricted by virtue of their confiscation under Control Council Law No. 2. Military Government authorized the normal operation of many of such properties in order to meet the minimum needs of the German economy.

Control Council Law No. 9 vests title of the I.G. Farben properties in the Control Council and operation of said enterprise was under the control of the I.G. Farben Control Committee. Therefore, instructions were issued that no debts of this organization were to be paid, regardless of when incurred, out of funds of properties confiscated under Control Council Law No. 9, except on order of the I.G. Farben Control Committee.

In general, Military Government regulations in the British, French, and Soviet Zones of Occupation would not permit the payment of debts to residents of their respective zones or the U.S. Zone incurred prior to 8 May 1945. In some instances, however, exceptions were made by British authorities and such debts could be paid with appropriate approvals, if the debt was not incurred as the result of war contracts. The Soviets, however, made no exceptions and only permitted certain payments to be made for goods furnished after the beginning of the occupation. All transfers to the Soviet Zone were screened at the Berlin Stadtkontor Bank and were made through Reichsbank accounts. All such payments had to be routed through the accounts which the Berlin Stadtkontor maintained with the main Reichsbank offices in Bavaria, Hesse, and Wuerttemberg-Baden.

In those instances where a firm located in the Soviet Zone had branches in the U.S.-occupied Area, payments were permitted within the U.S. Zone to a duly authorized representative of the creditor. All questions of doubt were referred to the office of the chief of Property Control Branch, OMGUS. Laws adopted in certain Laender in the Soviet Zone provided for the nationalization of certain industries. In some instances, such enterprises also had branches in other zones. Inasmuch as it was not known whether such nationalization or socialization would be recognized in the U.S.-occupied Area, no payments to such creditors were permitted pending clarification of this issue.

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Boards of Supervisors

The appointment of Boards of Supervisors (Aufsichtsrat) for German firms under control was permitted. German law required joint stock companies (AG's 1/) and cooperative associations to have a Board of Supervisors. In the case of limited liability companies (GmbH 2/), a Board of Supervisors is not required by law, but had to be formed where the Articles of Association so provided. There are certain fundamental distinctions between the powers, duties, and authority of property custodians and supervising boards. Custodians of Property Control were required under Article III, 4 (a) (II), of Military Government Law No. 52 to preserve, maintain, and safeguard seized property, and under MGR 17-815 (as of March 1947) they had full powers of management and direction of seized properties. The Board of Supervisors of AG's, on the other hand, represent the companies in their relationship to the management and could be called upon to conduct lawsuits on their own behalf or on behalf of stockholders. They cannot exercise managerial functions. With very few exceptions, the relations between custodians and boards were very good, and conflicts were few.

Extraordinary Expenditures

As a general rule, extraordinary or unusual expenditures were prohibited. If warranted, however, after a complete survey of the situation, such expenditures were permitted after approval by the IPCC or LCAH. Requests for clearance of extraordinary expenditures incident to render rehabilitation and repairs, erection of new facilities, purchase of new equipment and machinery, etc., were checked by the IPCC or LCAH for basic soundness. Details of the proposed maximum improvements, together with estimated production after the improvement was completed, were then forwarded to Industry Branch, Economics Division, Land level, where it was determined whether or not the proposed improvement conformed to establish over-all policies on industrial production. If the Economics Division approved of the proposed improvement, the IPCC (and at a later date the LCAH) was authorized to approve such requests.

Status of Unexpired Leases

Almost all leases entered into pertaining to properties under control provided that said leases could be terminated by Military Government at any time. It was a policy of Military Government to cancel such leases if requested by the owner when such properties were either decontrolled or, in a case of properties of Nazi Party members, after exoneration by denazification tribunals. The date of termination was fixed as one year from the date on which such notice was given to the lessee. This period of time was considered adequate to permit the lessee to make other lease arrangements. In exceptional cases the period was extended for another six month interval. The owner was called upon to assume the payment of unamortized portions of all costs of repairs and improvements incurred by the lessee. Leases were, of course, not terminated where the owner agreed to the lease or was a party to it. Leases involving information control newspaper licensees were not subject to the foregoing procedure and were not terminated except on specific instructions of Information Control officials.

Taxation of Property Under Control

Payments of real estate and other taxes were made where possible. In many instances, however, the properties did not produce sufficient income to pay the taxes. In such instances, local Property Control authorities were instructed to make arrangements with the local German government for the payment of these expenses, together with other necessary expenses required to prevent further deterioration of the property. The local German authorities kept accurate records of such expenditures paid. The accumulated expenditures constitute a lien against the property until such property was either returned to the rightful owner or otherwise disposed of, at which time the liability was liquidated.

1/ AG -- Aktiengesellschaft (joint stock company).

2/ GmbH -- Gesellschaft mit beschränkter Haftung (limited company).

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In many instances, it was found that taxes on real estate were being paid on prewar assessed values, in spite of the fact that such properties were considerably damaged by bombing, etc. Custodians were instructed, in such instances, to apply to property tax authorities for a reduction in the tax/proportionate to the damage sustained. Although some relief was obtained, local German authorities were extremely slow in making re-assessments and adjustments.

Fire Insurance

Every effort was made to see that properties under control were adequately covered by fire and other hazard insurance. An investigation indicated that many properties, even though completely destroyed, were still covered by fire insurance. Property Control authorities were instructed to establish the necessary procedures to determine the type and amount of insurance necessary for adequate protection of all properties under control. In those cases where insurance was not required, the policies were to be canceled immediately. In many instances, the only insurance required in the cases of vacant land, etc., was liability insurance.

U.S. Businessmen in Germany

Numerous properties owned by U.S. nationals were taken into Property Control and custodians appointed to manage said properties. These custodians could not, however, under the "Trading with the Enemy Act" receive directions with respect to the conduct of the business (transactional communications) from their owners. They were permitted to send and receive the business information only, such as balance sheets and operating statements, through OMGUS and State Department channels, and such communications were called "non-transactional business communications."

When U.S. businessmen were allowed to enter Germany to look after their property, under the "Trading with the Enemy Act," they could look but not act, they could listen but make no decisions. In June 1946, the Treasury Department issued standard form Treasury License No. W-2857, which relaxed to a considerable extent certain provisions of the "Trading with the Enemy Act" with respect to businessmen in Germany having a military permit. The license did not extend to a U.S. owner outside of Germany who wished to communicate a business decision to the custodian of a German property. Such a communication would have been a breach of the "Trading with the Enemy Act". Treasury License No. 2857, although of great assistance as it permitted businessmen to "confer with military authorities with respect to the restitution, maintenance, preservation, and operation of such properties," did not go far enough in permitting businessmen actively to assume managerial direction of their properties.

Lawsuits

As a general rule, properties under control were not permitted to be sued without proper authorization from Military Government Property Control authorities. Suits in German courts involving any of the United Nations were expressly withdrawn from jurisdiction of German courts by Article I, Section 10 b (1) of Military Government Law No. 2, as amended by Amendment No. 2.

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UNITED NATIONS, NEUTRAL, AND OTHER ABSENTEE-OWNED PROPERTIES

Property of absentee owners was placed under control in order to protect it for the owner until he could take steps to protect it himself. During the early days of the occupation, communications of a transactional nature were not permitted and travel permits were difficult to obtain. With the opening of the mail for transactional communications, owners were able to give full instructions for the operation of their property. After months of study and analysis, a program providing for the decontrol of properties belonging to citizens of United Nations and neutral nations (except Spain and Portugal) was completed.

Decontrol of United Nations, Neutral, and Other Absentee Owners' Properties

Announcement was made on 25 June 1947, just after restoration of transactional communications, that owners of properties in Germany who lived outside of Germany could apply to the German Land Property Control agency for the release of properties under Property Control to nominees of the owners who are permanent residents of Germany and who have been given properly executed powers of attorney. The requirements for release are:

When the owner is a citizen or a resident of one of the United Nations or a neutral country but is not a citizen or resident of Spain or Portugal.

When the property was placed under Property Control solely by reason of absentee ownership, as provided in Article I, paragraph 1 (f), of Military Government Law No. 52, 1/ and no other reason for control exists.

When the nominee presents a document dated on or after 15 June 1947 (the date when transactional communications were authorized), which constitutes either a valid power of attorney from the owner or a confirmation of an existing power of attorney.

When the nominee is politically acceptable under the (German) Law for Liberation from National Socialism and is a resident of Germany.

When the title is not in dispute.

When the owner can prove ownership of 51 percent or more of the property, if available official records in the Laender (for example, Land Title Register (Grundbuch), Commercial Register (Handelsregister), etc.) do not show prima facie evidence of the fact.

When a release binding on the owner is executed at the time the nominee received the property.

On 30 October 1947, the same procedure outlined above for the decontrol of properties which were owned 51 percent or more was applied to properties in which an interest of less than 51 percent was held by United Nations and neutral nationals.

Under both programs, the original announcement stated that the operation and management of properties eligible for decontrol, but not so decontrolled, would be turned over to the German Governmental Property Control authorities on 1 January 1948 (in the case of properties in which the applicant had a majority interest), or 1 March 1948 (in the case of properties in which the applicant had a minority interest). However, on 30 December 1947 Military Government announced that the proposed turnover to German authorities was postponed until 31 March 1948.

On 21 November 1947, the decontrol program was extended to apply to enemy property in the U.S. Zone on the same basis as other foreign-owned properties.

1/ See Annex IX, p. 65.

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Therefore, the properties of nationals of the following countries could now be decontrolled: Bulgaria, Hungary, Italy, and Roumania. Finland also fell into this category because, although not an enemy of the U.S., it was a "nation at war with one of the United Nations."

Early in January 1948, the entire decontrol program was reviewed, as very few owners of properties had taken advantage of the decontrol program. The results of field investigations indicated that the delay was due to a number of factors:

- Poor results on publicity,
- Reluctance on the part of the owners to accept the responsibility,
- Objection by some owners to the form of release as being too broad,
- Cost of custodianship under Military Government was low,
- Belief that Property Control custody offered protection, not present after decontrol.

To overcome some of these objections and to expedite the decontrol program, every effort was made to give more publicity to the program through press releases, direct contact with owners, and direct contact with Military Missions and Consulates. To overcome the objections to the form of release, steps were taken which resulted in liberalizing the form so that notary fees would be lowered and in changing the language in the release form to make it more specific. Provision was also made permitting owners to list specific exceptions, by way of a bill of particulars to the release form. The entire release form was reviewed with representatives of American business organizations, and substantial agreement was reached.

In June 1948 the decontrol program still was not meeting with the degree of success desired. In order to expedite the program, various recommendations were made to, and approved by, the Military Governor. These recommendations were:

- That no more properties in this category would be taken under control, except in cases where "irreparable harm" would result.

- That owners would be told to correspond directly with the custodian and that German Property Control authority would be permitted to pass legislation providing for the charging of fees to cover the cost of supervising these properties.

All owners of properties still remaining under control were sent letters indicating the above policy. On 14 September 1948, the Ministers President of the various Laender were authorized to have legislation enacted for the charging of fees to cover the cost of supervision by the German state Property Control authorities.

During the latter half of 1948 some improvement was noticed. However, results still remained unsatisfactory. The program was again reviewed and specific steps taken to assure the success of the Liquidation Program. A complete review of all absentee-owned properties under control indicated that they could be broken down into specific major groups as follows:

- Properties of absentee German owners whose address was unknown;
- Properties valued at less than DM 10,000;
- Properties valued in excess of DM 10,000;
- Properties of absentee owners which were taken under control because of a minority (less than 50%) interest in said property;
- Non-income producing properties.

Disposition of Property of Absentee German Owners Whose Address was Unknown

Section 1911 of the German Civil Code provides as follows:

"For an absent person of full legal age whose residence is unknown, a curator in absentia will be appointed in order to manage the property of the absent person in case the property needs such curatorship."

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German law thus provides ample protection for this category of property. Property Control field offices were, therefore, instructed to make appropriate arrangements with the proper German Court authorities for the appointment of a curator in absentia for each of such properties. By the end of January 1949, all such properties had been transferred to the German courts.

Disposition of Absentee-Owned Properties Valued at Less than DM 10,000

It was found that, of all absentee-owned properties remaining under control as of 31 December 1948, more than 50 percent were properties valued at less than DM 10,000. Therefore, the proposal was made and approved that all absentee-owned properties valued at less than DM 10,000 be released to agents or relatives who were in custody of the property at the time it was taken under control and who continued to have the confidence of the owner. On 7 April 1949, a program providing for the release of such properties under the above-mentioned terms was announced. All owners were notified of the action taken. They were further notified that certain properties in this category, which could not be disposed of under this program, would be turned over to custodians in absentia appointed by German Courts on 1 June 1949. It was felt that this procedure was equitable and would result in a far smaller burden on the German court system.

Disposition of Absentee-Owned Properties Valued in Excess of DM 10,000

In May 1949, General Order No. 4 was issued pursuant to Military Government Law No. 52. This order provides for the transfer of property taken under control, solely by reason of absentee ownership, to custodians in absentia appointed by German Courts wherever an owner had not applied to Military Government for the decontrol of such property in accordance with Military Government procedures. On 2 May 1949 the Directors of Military Government for the Laender were instructed to have owners advised individually of this procedure and given an opportunity to decontrol their property by 1 June 1949. Properties not so decontrolled are to be transferred to custodians in absentia under the terms of General Order No. 4.

Disposition of Minority Interests of Absentee Owners

A number of large properties under control, it was found, were taken under control to protect minority absentee-owned interests. On 23 May 1949, General License No. 16 was issued pursuant to Military Government Law No. 52, which enables absentee owners of stock interests in German enterprises to exercise their voting rights in much the same manner as they were exercised prior to hostilities. Absentee holders of minority interests (less than 50%) in German enterprises were advised that the properties would be released from Military Government control by 20 June 1949. They were further advised of the contents of General License No. 16. Such properties were released to the management chosen by the majority owners.

Disposition of Non-Income Producing Properties

A number of properties in this category were non-income producing and consisted of such items as vacant land, bombed-out buildings, etc. As these properties could be adequately protected by blocking control, Property Control authorities were instructed to see that adequate notation of absentee ownership and blocking was placed on the Land Registers. Such properties were then released from control.

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Number and Value of United States and Other
Absentee-Owned Properties Under Control
At Various Dates to 30 June 1949

<u>Date</u>	<u>Number of Units</u>	<u>Estimated Value in RM</u>
31 Dec 1945	1,286	571,593,317
30 Jun 1946	8,015	1,265,978,000
31 Dec 1946	10,693	1,675,230,490
30 Jun 1947	12,331	2,045,700,179
31 Dec 1947	13,842	2,194,402,636
30 Jun 1948	14,463	1,623,511,084
31 Dec 1948	10,735	1,099,686,378
30 Jun 1949	3,048	233,230,092

Of the 3,048 absentee-owned properties remaining under control as of 30 June 1949, approximately 200 were in the process of being decontrolled. Those remaining are in the process of being transferred to custodians in absentia under the German court system. It is estimated that all of these properties will be released from control prior to 31 August 1949.

Export of Household and Personal Effects

In May 1948 a program was announced providing for the export from the U.S. Zone of personal effects and household goods which were owned by residents of countries outside of Germany, provided that satisfactory proof of ownership prior to 8 May 1945 could be established, that the property was not subject to external or internal restitution, and that no person in Germany had any ownership interest in the property or claims in the nature of liens against the property. This relaxation of the export regulations did not extend to commercial articles or items which are considered a part of the German cultural heritage.

Polish Properties

Under the German Ordinance of 17 September 1940, a great many Polish properties were confiscated by German governmental authorities. Due to this unusual step by the German authorities, many difficulties have arisen in the treatment of Polish properties by U.S. Property Control agencies. Numerous requests have been received from the Polish Military Mission requesting that the U.S. Decontrol Program be applied to the Polish properties under control.

Unlike most other United Nations properties which were placed under control solely by reason of absentee ownership pursuant to paragraph 1 (f) of Military Government Law No. 52, Polish properties confiscated under the German Ordinance of 17 September 1940 were taken under control pursuant to paragraph 2 of Military Government Law No. 52. They could not, therefore, be released under the Decontrol Program but could be returned only after the disputed title was settled under the provisions of Military Government Law No. 59, which provides for the restitution of identifiable property taken from their owners by "wrongful acts of confiscation, dispossession, or spoliation." Properties of Polish nationals were treated the same as properties of other United Nations nationals, but, due to the fact that such property was not under control solely for the reason of absentee ownership, the decontrol procedure could not apply. The Decontrol Program pertains only to properties which were placed under control solely by reason of absentee ownership, and no other reason for control exists. It was pointed out to the Polish authorities that this procedure was necessary in order to fairly determine the question of profits, damages, and rights of purchasers in good faith, inasmuch as certain properties in this category were taken for "legitimate" reasons recognized under international law.

Treatment of Property on Which Mortgages Are Held by Nationals of the United Nations and Neutral Governments

Such property was only taken into control when the following two conditions existed:

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When the circumstances involved were such that taking the property into Property Control custody was necessary to protect the interests of nationals of United Nations and neutral governments.

When the value of the mortgage is in substantial proportion to the present value of the property, e.g., 65 percent or more of the present valuation. In this connection, the instructions to the field pointed out that Property Control was not to be exercised over properties not important or valuable enough to warrant control.

Application of Land Reform Laws to United Nations and Neutral Properties

There are a large number of properties of considerable size owned by people residing outside of Germany which were affected by the various land reform laws in the U.S. Zone. Although these laws sometimes adversely affected the rights of absentee owners, Military Government took the position that such property is subject to the laws of the state in which it is located. Therefore, Military Government does not prevent the operation of the land reform law in such cases.

Appointment of Custodians for Hungarian Properties

The Hungarian Restitution Commission requested Property Control to place Hungarian properties into the custody of Hungarian displaced persons (DP's). Similar requests have been received from other nations. In the Hungarian case, however, the Hungarian officials charged that the German custodians were guilty of negligence and waste. A detailed investigation was made covering a period of approximately one month, and the charges were found, in a large part, not substantiated by the facts. On 10 January 1947 three members of the Hungarian Claims Commission visited the Property Control officer in Regensburg and offered their apology for having complained. The Hungarian authorities were informed that, although in many instances Hungarian DP's were appointed custodians, installed German custodians who continued to do a conscientious job could not be discharged by Military Government.

Moratorium on Foreign Investments

Military Government Law No. 52 prohibits transfer of property of absentee owners of non-German nationality including United Nations and neutral governments, except where authorized by Military Government. Military Government Law No. 53 1/ prohibits, without license issued by Military Government, transactions in Germany for or on behalf of any person outside of Germany. Accordingly, United States Military Government authorities have not permitted the transfer of property of foreign nationals or governments, or the acquisition of any interests by them. This policy did not apply to the receipt of legacies.

Property Control received a number of inquiries requesting permission to reacquire properties wrongfully taken from former owners or permission to replace former properties removed for reparations in other zones, or destroyed.

Early in 1947 Military Government modified the above procedure as follows: applications for special license were considered and approval granted if the proposed investment was for the purpose of either reconstructing existing property or replacing essential property, lost to the owner for any reason since 1939, but similar in character. It was further provided that the purchase of property for replacement had to be in Germany, that only Reichsmark balances already in Germany were to be used in making the purchase, that the proposed investment would not have the effect of putting the applicant into a superior position in the particular industry concerned to that which he occupied in the industry in 1939, and that the proposed construction would not violate present level of industry plans. Applications for specific licenses with respect to properties under control were to be made through Military Government Property Control authorities. This procedure was later changed so that applications were to be forwarded through German Property Control authorities.

1/ "Foreign Exchange Control;" see Annex X, p. 68.

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Effect of Currency Reform on Property Control

Article XV of Military Government Law No. 63 "Third Law for Monetary Reform," provides that United Nations nationals may refuse tender of payment in Deutsche marks of Reichsmark debts owed to them in Germany, or object, by declaration to the debtor, to the conversion of such debt into Deutsche marks. Such refusal of tender of payments or declaration of objection to conversion had to be made on or before 20 August 1948 (later extended to 20 November 1948). Eleven thousand units of properties owned by United Nations nationals were under control at the time. A substantial number of said properties and owners had Reichsmark debts owing to them in the form of mortgages, current debts contracted in the normal course of business, etc. The law, briefly, permits those United Nations nationals, who accepted tender of payment in Deutsche marks, to recover the amounts owed to them on the basis of DM 6 $\frac{1}{2}$ for every RM 100. The acceptance of such tender, however, satisfied the debt in full, and the United Nations national involved was precluded from ever recovering in excess of that amount. On the other hand, those United Nations nationals who refused tender of payment in Deutsche marks would have to await a general settlement under a peace treaty. Presumably a general settlement would be at least as advantageous as the terms of the law.

Since the decision to exercise or not to exercise the option under Article XV would have a profound effect upon certain properties under control, all custodians were instructed to make every effort to obtain statements of preference from the owners. Such form letters were forwarded to the Land Directors of Military Government for appropriate distribution.

Payments to Relatives of United Nations Nationals

Certain hardships on dependent relatives of foreign residents were alleviated by General License No. 13 issued pursuant to Military Government Law No. 52 (also known as General License No. 1 to Military Government Law No. 59). Under this license the United Nation or neutral resident was permitted to pay out of his bank account in Germany amounts up to DM 300 per month to relatives in either the U.S.- or U.K.-occupied Area. Appropriate instructions were issued to Property Control authorities in the field.

Administration of Property Utilized by Information Control

One major problem which confronted Military Government was the question of the extent to which newspaper licensees could be protected in their possession of newspaper printing plants, which were seized at the end of hostilities, put under Military Government Property Control, and then leased to certain newspaper licensees approved by Information Control authorities.

Under existing Military Government policies, directives, etc., every effort was made to obtain long-term leases. Where former owners refused to negotiate, mandatory leases were entered into. Payment of a fair rental was required with provision for revision of rental fees. Such leases are permitted to run until maturity, irrespective of the fact that a former Nazi owner may have been given clearance under denazification laws. Most leases run until approximately 1955.

PROPERTIES OF THE GERMAN REICH, LAENDER, PROVINCES, AND POLITICAL SUBDIVISIONS THEREOF

Properties of the German Reich were taken into control pursuant to Article I, paragraph 1 (a), of Military Government Law No. 52: 1/ Due to the fact that Reich properties were so extensive, it was not possible for Military Government to establish control over all these properties with the available personnel, nor was it felt necessary in all instances to do so. By far the largest group of properties in this category was not taken under control because property such as the Reichsbahn, Reichspost,

1/ See Annex IX, p. 65.

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and Inland Water Way systems, and properties used to house or facilitate functions of the former Reich government were either under supervision of other interested branches of Military Government or were used by the various Laender for governmental purposes.

Recommendations for Disposition Made by the Property Disposition Board on 26 March 1946

It was the feeling of the Property Disposition Board that responsibility for custody of Reich properties which are not being used by the occupation forces should be placed in the Land governments. These include all Reich government buildings, most of which were not taken into Property Control custody as the properties could be used in the conduct of such essential governmental functions as may be authorized by the Control Council.

It was further recommended that government buildings and facilities which may not be used in the conduct of essential governmental functions, such as properties of the German Armed Forces Supreme Command, German Army, Navy, Air Forces, and components, should be under control of the Zone Commanders. The most feasible solution appeared to be to have title vested in the Land governments, with the understanding that the property be used by the Laender or sold for agricultural purposes, schools, housing projects, etc. The income from the use or sale of this property by the Land governments, it was recommended, should be used for public education, welfare, and similar projects unless the financial structure of Germany required the funds elsewhere.

Ultimate disposition of Reich properties, non-governmental in nature but national in scope, such as the Reichsbahn, Post, Telegraph and Telephone, Radio Stations, the Reichsbank, and certain public utilities, was to depend upon future quadripartite action.

With reference to Reich-owned business enterprises, it was recommended that those which were not destroyed or removed as reparations should be transferred to the Laender for interim custody. It was further felt that, if the Land had no use for such enterprises, they should be sold at public auction or by negotiated sale.

Transfer of Responsibility to German Authorities

In line with Military Government policy of transferring responsibility to German authorities, those properties belonging to the Reich, Prussian State, etc. which had been taken into custody by U.S. Property Control authorities were transferred to various German Laender Property Control agencies during the latter half of 1946 for purposes of custody and administration. As stated above, the large majority of Reich, Prussian State, etc. properties were not taken into custody. The Reichsbahn, Post, Telegraph, and Telephone were under the supervision of the Transport Division and the Communications Branch of the Internal Affairs and Communication Division. Reichsbank disposal had to await a Finance Division decision as to the future of German banking.

Problems Concerning This Type of Property

Control Council Proclamation No. 2, Section V, paragraph 14, 1/ states that the disposition of the title to the property of the German Reich, its political subdivisions, etc. is a matter for the Control Council. Control Council Law No. 46 2/ abolishes the state of Prussia and provides that the assets will be transferred to the appropriate Laender, subject to such agreements as may be necessary and made by the Allied Control Authority. Due to the suspension of quadripartite negotiations in March 1948, the necessary agreement was not reached.

In view of the above, the recommendation was made in the Liquidation Program that certain properties in this category should be disposed of unilaterally along the lines previously recommended by the Property Disposition Board.

1/ "Certain Additional Requirements Imposed on Germany;" see Annex XV, p. 84.

2/ "Abolition of the State of Prussia;" see Annex XX, p. 88.

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Present Situation

On 20 November 1948, Military Government Law No. 75, "Reorganization of German Coal and Iron and Steel Industries," 1/ was promulgated. This law disposes of the interests of the former Reich or Prussian State in companies engaged in the aforementioned industries. The law further provided for transfer of these properties to the US/UK Coal group, pending final disposition. To date, the Coal Control Group has not been willing to accept responsibility for these properties as provided for under Military Government Law No. 75.

After months of work, Military Government Law No. 19 2/ was promulgated. This law provides for the disposition of properties in the U.S.-occupied Area, including the U.S. Sector of Berlin, which belonged to the former German Reich and to the former German states, Laender, or provinces, including the state of Prussia. Properties under Military Government control were then immediately transferred to the Laender in which the property was located. Title to properties affected by the law was transferred to the Land in which the property was located, providing either for outright ownership by the Laender, or for making them trustees for the Federal German State when formed; or for trade unions, cooperatives, political parties or other democratic organizations, if such properties had been taken from them by the former German Government. Certain broadcasting properties of the Reichspost were transferred to public service broadcasting institutions in each Land, organized pursuant to German law. Privately owned interests in any property affected by the law were to be dealt with in future legislation approved by Military Government. The law further provided that the future Western German Federal Government may set aside any dispositions of property to the German Laender made by the law, in cases of conflict between Military Government Law No. 19 and the Basic Law (provisional constitution) of the future Western German State.

The uncertainty of title of many of these properties seriously retarded the development of many phases of the German economic position. Repairs, rehabilitation, and remodeling were not attempted by persons without title, or assurance of title, and the most beneficial utilization of such properties was prevented. Examples are the numerous lands of the former Wehrmacht (German armed forces) which were well suited to agricultural uses, but which were not properly developed because temporary occupants were unwilling to make substantial improvements under existing conditions. It is hoped that the new law will permit the Laender to make outright sales of such properties and greatly benefit the German economy.

Properties properly used for occupation purposes were to remain under requisition until release, although title passed at once to the Laender or other designated recipients. Transfers of property under the law were to be made by the Minister President of each Land, (in Bremen, the President of the Senate; in Berlin, by the Mayor) or such officials as they may name. Although the area specified by the law includes only the U.S.-occupied Area, the law provides for enlargement of the specified area to include the British and French Zones in the event of enactment of similar legislation in said zones.

Article X of the law exempted certain properties from operation of the law, such as properties owned directly or indirectly by the German Reich and used for, or in connection with, the production, distribution, and exhibition of motion picture films, and properties of the iron and steel and coal industries disposed of under Military Government Law No. 75.

As of 30 June 1949, almost all properties subject to Military Government Law No. 19 were released from control pursuant to said law. Since promulgation of the law on 16 April 1949 to 30 June 1949, 4,454 units of German State properties valued at approximately DM 3,000 million were released from control. Those properties exempted

1/ See Special Report of the Military Governor "Ownership and Control of the Ruhr Industries," November 1948.

2/ "Disposing of Properties in the United States Zone of Occupation and the United States Sector of Berlin Having Belonged to the Former German Reich and to the Former German States, Laender, or Provinces (Including the State of Prussia);" see Annex VIII, p. 61.

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from the law are receiving special attention. Decartelization authorities are now working on a special law providing for the final disposition of the U.F.A. (moving picture industry) complex. Properties of the German coal and iron and steel industries must be retained pending transfer to the US/UK Coal Control Group and the US/UK Steel Group.

NAZI PARTY ORGANIZATIONS

One of the most important tasks of Property Control was the taking into custody, until final disposition, of properties of the NSDAP 1/ organization. The greatest of such organizations was the DAF (Deutsche Arbeitsfront or German Labor Front). These properties were taken into custody originally under authority of JCS/1067/6 2/ and then under the provisions of Military Government Law No. 52 3/ and Control Council Law No. 2. 4/ The Property Control Branch, in 1945, was directed to assume control of properties of the DAF in the U.S. Zone. As an indication of the tremendous amount of work involved in this one category of property alone, a brief outline of the DAF is given below.

Founded as a state labor organization, the DAF, through elimination of individual enterprises, grew under National Socialism into a gigantic economic empire which, by political, economic, industrial, and labor control, had eclipsed many industrial and economic activities in Germany. It owned or controlled approximately 15 percent of the German economy.

Organization of the DAF

The DAF, affiliated with the National Socialist Party by a decree of Hitler in October 1934, was the instrument by which the Nazi Party exercised control over German workers. Ostensibly it was an all-inclusive labor union which integrated into one organization every worker, including those imported from occupied countries, who performed any task in a German industrial plant. Through a series of expansions, it became in fact a gigantic enterprise which controlled every phase of the life and death of the German worker. Through orders from Hitler, all consumers' cooperatives were absorbed into the organization. To bring "Strength Through Joy" (Kraft durch Freude (KdF)) to the German workers, the DAF through the KdF offices supervised his recreation, and to provide "suitable" recreation the organization acquired hotels, steamship lines, theaters, and publishing houses. To provide for this housing, apartment houses were constructed, building and loan societies were organized to finance individual homes, and insurance companies were created to provide insurance coverage to secure the loan. Each member was permitted to subscribe for the purchase of the "people's car," to be paid for in installments and delivered after payment was completed. To make the automobiles, the Volkswagen factory was constructed. Medical care was provided through subscriptions, the facilities being owned by the DAF, and death benefits were paid by the insurance companies owned by the DAF which sold policies to the members. Due to these many enterprises, what began as a labor union grew into an economic complex, the organization of which was briefly as follows:

Headed by an office for finance, industry and commerce, the DAF commercial holdings were comprised of two holding companies under which were various real estate properties, the People's Car Factory (Volkswagenwerk), a huge retail cooperative organization, a labor bank and seven subsidiaries, an insurance group of 10 companies, and 36 miscellaneous industrial and commercial concerns. The value of this large organization was placed by Ley, the Reichsleiter of the DAF, at RM 10,000 million, although a more exact estimate would be around RM 3,000 million or 4,000 million. As with other German enterprises, estimates of value are only comparative, since they are dependent upon the over-all condition of the economy.

1/ Nationalsozialistische Deutsche Arbeiter Partei (National Socialist German Worker's Party).

2/ See Annex II, p. 46.

3/ See Annex IX, p. 65.

4/ See Annex XVI, p. 85.

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Taking DAF Properties into Custody

A list of DAF properties in the U.S. Zone was prepared in two parts. The first was a list of 12 manufacturing plants, 10 wholesale supply areas, and 1,335 retail outlets of the Cooperative Plant (Gemeinschaftswerk) of the DAF; this part was distributed to Property Control officers in the field. The second consisted of real properties owned by the Vermoegensverwaltung, a Holding company of the DAF; these were then distributed to Property Control officers in the field. Both lists facilitated the taking into control of such properties.

Of all the property in Germany formerly belonging to the DAF, approximately 18 percent of the real estate and 20 percent of the branch banks are located in the U.S. Zone. Also in the U.S. Zone are one of the 10 DAF insurance companies and a negligible amount of miscellaneous DAF industrial and commercial concerns. Investigation of the insurance companies of the DAF revealed extensive properties that required Property Control supervision.

Legislation

On 29 April 1947, Control Council Directive No. 50 ^{1/} was promulgated. This directive provided for the disposition of property having belonged to Nazi organizations listed in Control Council Proclamation No. 2 ^{2/} and Control Council Law No. 2. It was implemented by the promulgation of Military Government Law No. 58 ^{3/} and the issuance of implementing instructions in June 1947 by the Property Control office, OMGUS, to the Directors of the Military Government of the various Laender.

With respect to such properties located in Berlin, Control Council Directive No. 50 was implemented in March 1949. A commission of five judges is provided for, whose duty it is to review all such properties and to make recommendations for disposition to the appropriate Sector. Property Control offices for approval. Thus, this category of properties could also be released from control in the U.S. Sector of Berlin.

Implementation of the Program

It was the purpose of the Control Council as expressed in Articles II, III, and IV of Control Council Directive No. 50 that certain democratic and charitable organizations were to receive all of the properties formerly devoted to democratic and charitable uses. Due to the fact, however, that Directive No. 50 provided that liquid assets pertaining to a certain property were not to be transferred to the organization receiving the properties and also because the directive provided that receiving organizations must assume certain financial obligations with respect to the property, the recipient organizations refused, with very few exceptions, to accept the properties. It was the intention, of course, that cash accounts, securities, and monetary claims would be the subject of later quadripartite negotiations. Due to the suspension of quadripartite negotiations, the transfer of Nazi organization properties was at a standstill. In June 1948, certain recommendations were made to and approved by the Military Governor to remedy the situation. Briefly, they were as follows:

1. It was recommended that liquid assets, ordinarily used in connection with the operation of a property (other than central funds) be turned over to the recipient organizations along with the properties.
2. Properties not accepted on these terms, within three months of the promulgation of this change, by the successor or recipient organizations were to be trans-

^{1/} "Disposition of Property Having Belonged to Organizations Listed in Control Council Proclamation No. 2 and Control Council Law No. 2;" see Annex XXI, p. 88.

^{2/} See Annex XV, p. 84.

^{3/} "Implementing Control Council Directive No. 50;" see Annex XII, p. 70.

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ferred pursuant to the terms of Control Council Directive No. 50 to the various Länder or province governments.

On 9 August 1948, Military Government issued an "Amendment of Instructions Implementing Military Government Law No. 58 and Control Council Directive No. 50." This amendment revises instructions previously issued and provides that Military Government may waive liability of organizations receiving property formerly belonging to them, under Articles II or III of Control Council Directive No. 50, for the payment of debts and accretion in value of such property.

On the same day, Military Government issued a letter, Subject: "Unblocking and Transfer of Property Referred to in Article IX (1) of Control Council Directive No. 50." This letter authorized the unblocking and transfer to successor organizations of securities, cash accounts, and monetary claims, and the proceeds thereof, provided that such unblocking and transfer is in accordance with an appropriate license issued pursuant to Military Government Law No. 52.

Notwithstanding the above actions, properties of certain organizations not specifically listed in the appendix of Control Council Law No. 2 remained to be disposed of. A clear and easily applicable test to determine whether an organization falls within Control Council Law No. 2 could not be established. Determination, therefore, had to be made on the basis of pertinent facts which were better known to German authorities than to Military Government. Accordingly, a committee composed of the Land Civilian Agency heads met and considered the doubtful organizations. Their recommendations were reviewed by Military Government and, with two exceptions, were immediately concurred in. The exceptions were properties of the German Red Cross and of the Reich Food Estate (Reichs-Nährstand).

The German Red Cross and Disposition of Its Properties

At the peak of the war effort, the German Red Cross was a huge organization which employed over half a million paid workers and owned assets consisting of more than 15,000 parcels of real estate and over RM 100 million in liquid assets. Part of the assets were owned by the Praesidium, or presidency of the national organization, and part by the local chapters and sisterhoods of Red Cross nurses. Immediately after the occupation, the funds of the Praesidium were blocked, and in many localities in the U.S.-occupied Area, local funds were also blocked.

USFET directive of 7 July 1945, "Administration of Military Government in the U.S. Zone of Germany," Section VI, paragraph 6 of Part II, relating to "Public Health and Welfare," provides:

"The administration of public welfare will be decentralized to the local German administration, except those functions which you determine must be performed on a regional basis."

The German Red Cross is listed as a "welfare agency" in paragraph 22 e of the Military Government Technical Manual on Public Welfare. The USFET directive indicated that the German Red Cross was no longer to operate on its former national level, but was to be decentralized, at least to Land level.

Military Government Public Welfare authorities permitted local chapters to continue (after their denazification) their urgently needed welfare activities, such as care and support of ill or injured persons, etc. Since other charitable, religious, and welfare organizations, such as Caritas Verband (Catholic), Inner Mission (Protestant) and Arbeiterwohlfahrt (Labor), had their funds unblocked and were permitted to operate, Military Government Finance authorities permitted the unblocking of local German Red Cross funds so as to be available for all authorized purposes. Accordingly, Property Control made available local Red Cross funds, although title to many properties still remained undisposed of.

In December 1937, a Nazi law was passed under which the German Red Cross was reorganized with a view to bringing it in line with the Nazi regime, establishing

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the dominating influence of the Nazi Party in that organization by providing for the appointment of the president of the German Red Cross by the Fuehrer. Similarly, all other leading positions were filled by men and women considered wholly reliable by the Nazi Party and appointed with the consent of the Gauleiter of the NSDAP. Consequently, Military Government Legal authorities came to the conclusion that the German Red Cross, as reorganized in 1937 and operated under the Nazi regime, was a Nazi institution established as an "instrument of party domination." 1/

In view of the above, instructions were issued to the Land Property Control authorities to dispose of German Red Cross properties in accordance with the provision of Control Council Directive No. 50 and legislation and implementing instructions issued in connection therewith. Thus, most of such properties were transferred to the various Laender in which the properties were located.

The Reich Food Estate (Reichs-Naehrstand)

An analysis of this organization indicates that the Reich Food Estate was established for the purpose of extending the domination of the Nazi Party to the entire farming population and that, in fact, it was an agency supervised by the party and was, therefore, classified as a Nazi institution established as an instrument of party domination within the meaning of Control Council Law No. 2. Such properties were, therefore, transferred to the Laender in which located, in accordance with Control Council Directive No. 50 and implementation thereof.

Social Insurance Collections by Nazi Organizations

Contributions collected by Nazi organizations from employees, but not turned over to social insurance agencies prior to surrender, were regarded as funds held in trust rather than belonging to Nazi organizations. Military Government, looking upon social insurance with favor, desired the payment of all funds that were properly payable to social insurance agencies. Accordingly, early in 1947, the Offices of Military Government for the respective Laender were instructed to regard all funds of Nazi organizations which were collected from employees as social insurance contribution, not as debts, but as funds held in trust for, and therefore payable to, the social insurance agencies.

Releasing Nazi Party Properties from Control

Labor Union and Consumers' Cooperative Properties

In an effort to speed up the transfer of certain properties rightfully belonging to labor unions and consumers' cooperatives, a committee of Military Government officials consulted with representatives of the labor unions and consumers' cooperatives and German Property Control authorities in the various Laender of the U.S.-occupied Area during the latter part of August 1948. It was felt that, in view of recent changes in policy, indicated above, the reasons for refusing to accept these properties no longer existed. As a result of these meetings practically all labor union and consumers' cooperative properties, previously owned by them, were transferred to such organizations during the latter part of 1948.

Due to the fact that certain persons confused the terms "property of trade unions, etc." and "property of the DAF," much misunderstanding arose. The property acquired by the DAF since 1933 through ordinary commercial channels, and which was never owned by the trade unions or cooperatives, was transferred pursuant to the terms of Control Council Directive No. 50 to the Laender governments in which such properties were located, to be used by them for the best interests of the German people as a whole. With respect to certain properties in this category, especially suited for labor union activities, trade unions have, by negotiation with Laender governments,

1/ In this connection, it is to be noted that the basic "Handbook of Germany," a manual published by the British Government, lists the German Red Cross as a Nazi organization.

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acquired title to substantial properties which never previously belonged to said trade unions, but which were bought, or otherwise acquired, by the DAF after 1933 with funds obtained from all possible sources.

DAF Insurance Companies

In view of the fact that DAF insurance companies are in the process of liquidation under the supervision of Military Government, these properties, in line with Military Government policy, were transferred in accordance with MGR Title 17, Section 241, 1/ to a trustee named by, and under the supervision of, the Office of the Finance Adviser and released from Property Control custody.

Article III Properties -- Properties Formerly Used for Relief, Charitable, Religious, and Humanitarian Purposes

Properties devoted to relief, charitable, religious, or humanitarian purposes were returned to their former owners. In case the former organizations no longer exists, the property was transferred to a successor organization approved by Military Government. Charitable organizations organized by the Nazi Party after 1933 were likewise transferred to successor organizations approved by Military Government.

Other NSDAP Organizations

With few exceptions, hereinafter explained, all other remaining Nazi Party organizations' property under control was released during the early part of 1949. As mentioned above, the recommendations approved by the Military Governor in June 1948 provided that properties not claimed by successor organizations, etc. within three months after notification that liquid assets could be turned over with operating properties were to revert to the Laender. This three months' period expired in November 1948. Properties not claimed or accepted were transferred to the respective Laender.

As of 30 June 1949, there were only 346 properties under control in this category, valued at approximately DM 269 million. This compares with a figure of 4,438 units of such property valued at approximately DM 627 million in June 1948. Of the 346 properties remaining, 340, valued at approximately DM 38 million, are located in Berlin. As indicated above, Control Council Directive No. 50 was only recently implemented in the U.S. Sector of Berlin. It is expected that these properties, in accordance with recommendations made by the committee of five judges (provided for in the implementation) and approved by Military Government, will be released from control prior to 1 September 1949. The six remaining properties in this category, valued at approximately DM 230 million, belonged to the Bank der Deutschen Arbeit, which must be retained under control pending necessary policy decisions and the naming of the liquidation agent. It was planned and agreed that a new labor bank was to be formed and that said organization would be appointed liquidating agent. However, as of 30 June 1949, such organization had not been established.

I.G. FARBENINDUSTRIE

General Order No. 2, dated 5 July 1945, issued pursuant to Military Government Law No. 52 2/ provided for the seizure of I.G. Farbenindustrie. The order placed the direction of the subsidiaries, affiliates, and control organizations of the subject company in the U.S. Zone under the supervision of sub-control officers. Inasmuch as it was impossible for these officers alone to control immediately this large organization, instructions were issued at the request of the chief control officer to all Military Government Finance officers directing that the necessary appropriate action be taken to block all property not under control of sub-control officers. Most

1/ See Annex VI, p. 52.

2/ See Annex IX, p. 65.

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of the properties of this organization were taken under Property Control jurisdiction, and the funds of the organization blocked prior to December 1945.

The objectives of the seizure of I.G. Farbenindustrie -- the largest corporation in Germany and the largest chemical corporation in the world -- were to destroy forever its monopolistic control over German industry and to eliminate the war potential which it represented. Specific objectives of the seizure included making its plants available for reparations, destroying certain plants utilized for strictly war purposes, decentralizing the management and dispersing the ownership of individual units, terminating interests in cartels and cartel-like arrangements and preventing research for war purposes.

By 1937, I.G. Farben had a net worth of nearly RM 6,000 million, a capitalization of approximately RM 1,400 million, participation in nearly 400 German industrial organizations, and participation in nearly 200 organizations outside of Germany, valued at approximately RM 1,000 million. In Germany, before the war, I.G. Farben and its subsidiaries had more than 200,000 employees. During the war, this figure was increased to approximately 400,000 employees.

On its capitalization, RM 40 million of preferred shares, with multiple voting rights, were held by or for I.G. Farben, as a safeguard for voting control. Approximately 87 percent or RM 1,360 million, of common stock was owned by corporations and individuals within Germany. The remaining 13 percent of the common stock was owned abroad as follows:

Ownership of I.G. Farben Common Stock by Nationality 1937

Nationality	Percent Owned
TOTAL	100.00
Belgium-Luxembourg	0.15
Czechoslovakia	0.44
England	2.93
Holland	1.09
Spain	0.46
Switzerland	3.57
U.S.A.	0.71
Other Countries	3.65
Germany	87.00

Pertinent Legislation and Military Government Policy Statements

On 30 November 1945 Control Council Law No. 9 was promulgated. ^{1/} This law provided that all plants, assets, etc. owned by I.G. Farben on or after 8 May 1945 be seized and title vested in the Control Council.

On 10 December 1946 OMGUS General Order No. 300.4 provided that complete authority and responsibility for custody and administration of properties of the former I.G. Farbenindustrie A.G. in the U.S. Zone be transferred, as of 1 February 1947, to the U.S. I.G. Farben control officer of the Economics Division. The timeliness and essentiality of General Order No. 300.4 cannot be over-emphasized. Prior

^{1/} See Annex XVIII, p. 87.

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to the issuance of the General Order of 10 December 1946, the difficulties which existed in trying to manage and operate the I.G. Farben properties is best illustrated by listing the large number of authorized offices handling I.G. Farben business.

- a. Property Control
- b. Reparations
- c. Decartelization
- d. I.G. Farben Control Office
- e. Several Branches of Economics Division
- f. Fiscal
- g. German Minister President
- h. Units Occupying Premises

Release of I.G. Farben Properties from Control

In April 1947, the I.G. Farben control officer (U.S.) devised a plan providing for the transfer of I.G. Farben properties, located in the U.S.-occupied Area, to various trustees. Ever since that time, until early in 1949, when the program was completed, the process of transferring such properties continued. In all, 169 I.G. Farben properties, with an estimated value of DM 1,084 million were transferred to trustees in accordance with the above mentioned plan.

PROPERTY OF NAZI PARTY MEMBERS

Taking Property under Control

Property of Nazi Party members was taken under control in accordance with Military Government Law No. 52 and General Order No. 1 ^{1/} thereunder and the "(German) Law for Liberation from National Socialism and Militarism." ^{2/} By January 1948 approximately 55,000 of such properties had been taken into custody. It must be remembered that this is a net figure, since Property Control policy provided that as soon as a denazification trial was completed by the Spruchkammer denazification tribunal the property was either turned over to the German Property Control authorities as agent for the Land, if the property was confiscated, or returned to the owner, if cleared by the Spruchkammer. The process was a continuing one of taking such properties under control and, at the same time, of releasing properties where final adjudication had taken place.

Properties of Nazi Party members constituted by far the largest group of properties under protective custody.

Applicable Legislation and Procedure

In October 1946, Supplement No. 2 to General Order No. 1 pursuant to Military Government Law No. 52 was amended. Until the amendment, property confiscated by action of the Spruchkammer was subject to Property Control custody under the (German) Law for Liberation from National Socialism and Militarism as well as under Military Government Law No. 52. Such property was now subject to Property Control custody under the German law only.

In the administration of such property, the Land Civilian Agency acted on behalf of the German state and was not the agent of Military Government. In January 1948, the Allied Control Authority issued Directive No. 57, ^{3/} which provided for the disposition of property confiscated under Control Council Law No. 10 ^{4/} or legisla-

^{1/} See Annex IX, p. 65.

^{2/} See Annex V, p. 50.

^{3/} "Disposition of Property Confiscated under Control Council Law No. 10 or Legislation Issued Pursuant to Control Council Directive No. 38;" see Annex XXII, p. 89.

^{4/} "Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity;" see Annex XIX, p. 87.

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tion issued pursuant to Control Council Directive No. 38, "Arrest and Punishment of War Criminals, Nazis, and Militarists and the Interment, Control, and Surveillance of Potentially Dangerous Germans."

Creation of a Special Fund for Needy Persecutees

Each of the three Laender which then comprised the U.S. Zone 1/ (Bavaria, Wuerttemberg-Baden, Hesse) enacted legislation in the latter part of 1946, with the approval of the Deputy Military Governor, to meet emergency requirements of needy persons whose health, freedom, or property suffered damage under Nazi dictatorship because of their race, religion, or political ideology. To finance this program these laws provided for the establishment of special funds from the proceeds of administration or sale of properties forfeited as the result of Spruchkammer decisions.

Charging Fees for Supervising Nazi Properties

In February 1949, German Property Control authorities were authorized to charge reasonable fees to cover the cost of supervising the administration of properties of persons primarily categorized as Class I (major offenders) and Class II (offenders: activists, militarists, profiteers) offenders under the "Law for Liberation from National Socialism and Militarism." This authorization further provided that in cases where all of the property of the accused was not confiscated, a proportionate share of the fees charged against such properties was to be returned to the owner in direct ratio to the property said owner was permitted to retain.

Release of Properties of Category III and IV Offenders

Property Control procedure for controlling properties of Nazi Party members was outlined in MGR 17-235.2, 2/ which required control of property of Nazi Party members in accordance with Military Government Law No. 52, General Order No. 1, thereunder, the "Law for Liberation from National Socialism and Militarism," and the amendment of Article 58 of this German law, approved by the Military Governor on 3 October 1947. Paragraph 1c of Supplement No. 2 to General Order No. 1 and Articles 58 and 61 of the "Law for Liberation from National Socialism and Militarism" were changed late in 1947, so that from that time forward only the properties of persons preliminarily categorized by the public prosecutors as Class I or Class II Offenders were subject to Property Control custody prior to trial by the Spruchkammer. Therefore, the properties of persons given a preliminary classification as Class III (lesser offenders) or Class IV (followers) offenders by public prosecutors under the "Law for Liberation from National Socialism and Militarism" were no longer taken into Property Control custody prior to trial by the Spruchkammer, and all such properties already taken into Property Control custody were to be released unless other grounds for control existed. Such instructions were issued to the field in December 1947. Under the above program, however, properties having more than 50 employees or having a property tax value in excess of RM 1 million continued under Property Control custody even though the owner was a Class III or IV offender. Properties of persons classified as probationers by the Spruchkammer also had to remain in custody until the probationary period expired.

In the case of properties owned by heirs of a deceased Nazi Party member, the rule outlined above with necessary modifications was applied. In March 1948, instructions were issued to the field which provided for release of properties in those instances where the heir was not incriminated and where the deceased Nazi has not been found to be a major offender or a Nazi of such notoriety or reputation that the release to the heir could be considered incompatible with the denazification policy. Numerous properties in this group were retained due to the fact that German state authorities failed to commence proceedings under Article 37. The Land Civilian Agency head was instructed to request from the minister for political liberation an expression of the state's intention with respect to deceased Nazi Party members. If the minister for political liberation failed to reply within a reasonable length of time, said property was released from control to the heirs if qualified.

1/ Bremen was under British jurisdiction until January 1947.

2/ See Annex VI, p. 52.

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In November 1948, Military Government issued instructions to the field to release from control properties having more than 50 employees or a tax value exceeding RM 1 million belonging to Class IV offenders. Due to the fact that no confiscations may be charged against persons classified as Class IV offenders, and in line with Military Government policy of returning as much property as possible to the German economy, provided Military Government policies are not violated, this procedure was instituted.

Present Situation

On 1 January 1948, there were 55,545 units of this category of properties in Property Control custody. On 1 July 1949, there were 3,391 such properties under control belonging to people primarily categorized as Class I or Class II offenders and probationers. Under present regulations, these properties must continue under control until a final decision has been rendered by the Denazification Courts or the probationary period has expired. However, on final adjudication, speedy release will be made by Property Control authorities in accordance with the court's decree.

REQUISITIONED PROPERTIES

Property Control regulations provide that whenever property actually taken under control is requisitioned by the U.S. occupation forces, said property is released from control and made sole responsibility of the requisitioning authority. Nevertheless, numerous inquiries have been received by Property Control authorities from absentee owners concerning requisitioned properties. Whenever such inquiries were received, they were forwarded to the Theater Chief Engineer for appropriate reply. 1/

Derequisitioning of Property Occupied by U.S. Forces

Military Government regulations further provide that said properties when derequisitioned could be taken under control for protective purposes. It appears, however, that in a number of instances during the interim period, after derequisitioning and before the property was taken into custody, cases of looting and robberies occurred. As soon as this situation became apparent, arrangements were made with requisitioning authorities whereby such authorities were requested to forward lists of properties to be derequisitioned in the near future. They were also requested to contact Property Control Land officials so that such losses could be prevented by the prompt appointment of a custodian.

Requisition of Furniture by Military Posts

Widespread unrest and dissatisfaction was caused by the procedure followed by Military Posts in purchasing household furnishings for Reichsmarks. This was particularly true in the case of such properties belonging to United Nations and neutral absentee owners and properties in the "duress" category. Consequently, Property Control made the recommendation, which was approved in August 1947, whereby such purchases were limited to properties of Nazi organizations and Nazi individuals. Where such properties were purchased by the Military Posts, the proceeds were placed in blocked accounts for the benefit of the owner.

LOOTED PROPERTIES -- EXTERNAL RESTITUTION

Numerous items of identifiable goods taken by force and removed by the enemy from countries over-run by Germany were eligible for restitution to such countries to the extent consistent with reparations. In October 1946, Property Control Branch began receiving from the Restitution Branch external restitution claims that had been presented to them by foreign missions. These claims, eventually totaling approximate-

1/ The address of the Theater Chief Engineer is: Chief of Engineers, European Command, APO 403, c/o Postmaster, New York, N.Y.

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ly 8,000, were carefully investigated by the Property Control field staff. Every effort was made to locate the claimed properties and place them under control. Information concerning ownership, origin, and present location was compiled and forwarded to the Restitution Branch, OMGUS, for decision as to whether or not the property was eligible to leave Germany. Where the property was located, a custodian was appointed to safeguard it against theft and deterioration.

In general, however, the work of locating the properties and making shipment proved extremely slow. To expedite the External Restitution Program, six American personnel from OMGUS were assigned to temporary duty in the field, beginning 1 July 1948, for the purpose of winding up the External Restitution Program by 31 December 1948. It was their mission to assist German Property Control authorities and Military Government representatives in the accurate and speedy location and identification of claims, and to screen and spot check all reports from German Property Control authorities. By 31 December 1948, all property connected with outstanding restitution claims had either been placed in custody or the claims had been dropped. To make an equitable disposition of all dropped claims, a policy was formulated for determining ownership before the property was returned to the person who held it at the time of custody. This involved further investigation on the part of the Property Control field staff, but insured that the properties were returned to their rightful owners.

As of 30 June 1949, there remained under control 598 units awaiting shipment. Until a final determination is made by the State Department as to policy pertaining to such shipments of properties belonging to Hungarian, Lithuanian, Latvian, etc., owners, such properties must remain in control. All other properties in this category which could have been shipped under existing Military Government policy have been shipped. As of 30 June 1949, the External Restitution Program, insofar as it affects Property Control, may be considered complete. After that date, such properties taken under control will be limited to "meritorious" 1/ claims and will only be taken under custody at the request of Restitution authorities.

MISCELLANEOUS

Disposition of Captured Enemy Material and Funds Derived from the Sale Thereof

Since the inception of the Property Control Program, considerable quantities of captured enemy material and funds derived from the sale thereof had been held in Property Control custody. No action could be taken to correct this situation until a statement of policy was received from the Department of the Army as to what items are to be considered as captured enemy material.

The statement of policy from the Department of the Army, 2/ as supplemented by decision of Military Government, 3/ indicates that, in order to be considered

1/ Meritorious claims are claims for items which can be proved by the claimant nation to have been concealed by conspiracy on the part of the holder.

2/ Following is an excerpt from pertinent ACWAR (Adjutant General, War Department) cable WX-81794: "Subject is captured enemy property." "As matter of policy you will treat as captured enemy material only property which was owned or held for direct military use by enemy military forces."

3/ Early in 1947, Military Government policy (MGR 11-422) provided as follows: "All captured enemy material (CEM) under the control of the U.S. Forces, except such as is to be retained by the U.S. Army, is to be transferred against quantitative receipt to the German economy through Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH, or such bizonal successor agency as may be established. All CEM and funds derived therefrom, now subject to the control of Military Government, or which may come into its possession or under its control, will be turned over to the above-mentioned German corporation. CEM is defined as all movable property owned or held for direct military use by enemy military forces, which has been acquired by the U.S. Army (in most cases not later than 8 May 1945, but in no case later than 5 June 1945) and seized by the U.S. Army and reduced to 'firm possession.' The term 'firm possession' is deemed to require a manifestation or intention to seize the particular property and exercise some type of custody or possession thereof."

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captured enemy material, the property involved must meet the following conditions:

- a. It must have been movable property owned or held for direct military use by enemy military forces.
- b. It must have been acquired by the U.S. Army in most cases not later than 8 May 1945 but in no case later than 5 June 1945.
- c. It must have been seized by the U.S. Army and reduced to "firm possession." The term "firm possession" is considered to require a manifestation of intention to seize the particular property and to exercise some type of custody or possession thereof.

Sale of Goods into the German Economy Through STEG 1/

To assist the German economy, a plan was devised early in 1947 whereby captured enemy material (CEM) would be turned over to a German corporation organized by the Laender governments.

To expedite the program of transferring captured enemy material, the Land Property Control chiefs were requested to make a complete survey of all CEM and funds derived from the sale thereof and to make the necessary preparations for a speedy transfer to STEG. 1/ All such property has now been transferred to the appropriate German agency.

In October 1948, Property Control Circular No. 7 was promulgated and provided, in part, for complete release to STEG of "war materials" as defined and enumerated in Control Council Law No. 43. All items under Property Control which were mentioned in Schedules A and B of said law were transferred to STEG for disposal into the German economy.

In some instances, movable properties which were subject to rapid deterioration, belonging to United Nations and absentee owners, were also transferred to STEG for the purpose of utilization in the German economy. In such instances, however, the proceeds of the sale, less selling expenses (in no event exceeding 20%) were placed in a blocked account for the benefit of the absentee owner. Property Control authorities reserved the right to scrutinize overhead charged or selling expenses deducted by STEG from the proceeds of sales.

TREATMENT OF DURESS PROPERTIES

Introduction

Among the most important categories of properties over which property control has been exercised from the very beginning are so-called "duress" properties. Even prior to the surrender of Germany, it was the announced policy of the United States Government to take appropriate steps for the safeguarding of properties which had been expropriated by National Socialist persecution from their former owners.

Control Council Proclamation No. 2 on "Certain Additional Requirements Imposed on Germany," 2/ provides in Section XI, paragraph 42 (b), as follows:

"The German authorities will comply with such directions as the Allied representatives may issue regarding the property, assets, rights, title, and interests of persons affected by legislation involving discrimination on grounds of race, color, language, or political opinions."

1/ Staatliche Gesellschaft zur Erfassung von Ruestungsgut GmbH. (State Collection Agency for Surplus War Goods).

2/ See Annex XV, p. 84.

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This policy was also clearly restated in the Directive on U.S. Objectives and Basic Policies in Germany, of 15 July 1947, 1/ which states:

"It is the policy of your (i.e. American) government that persons and organizations deprived of their property as a result of National Socialist persecution should either have their property returned or be compensated therefore and that persons who suffered personal damage or injury through National Socialist persecution should receive indemnification in German currency. With respect to heirless and unclaimed property subject to internal restitution you will designate appropriate successor organizations."

Administration of Control Over Duress Properties

In execution of the above-mentioned policy, Military Government from the beginning has directed control of all properties expropriated or confiscated under circumstances indicating duress. Such control was imposed on the basis of lists of properties compiled in some cases prior to the surrender of Germany, or as disclosed by field investigations, or made known to Property Control agencies in the U.S. Zone through communications from former owners or their successors in interest. Reports required by Military Government from present owners, German governmental agencies, and financial and credit institutions, with respect to properties presumptively expropriated or confiscated under discriminatory measures of National Socialism (persecutory actions for racial or political reasons) were screened, and also resulted in Property Control action.

Property Control action was taken on the basis of Section 2, Article I of Military Government Law No. 52 (revised text, July 1945) 2/ which provided as follows:

"Property which has been the subject of transfer under duress, wrongful acts of confiscation, dispossession, or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise, is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision, or otherwise being taken into control by Military Government."

Blocking control was applied to savings bank deposits, accounts, funds, securities, and other negotiable interests on the same basis.

Custodians appointed by Military Government, or German Property Control agencies under the direct supervision of Military Government, were charged with the administration of properties under prescribed conditions and requirements for accounting and auditing reports intended to assure adequate safeguarding controls. The control and influence of present owners over the administration of the properties or enterprises were wholly excluded in most cases as a matter of principle and policy. All custodians of controlled properties were appointed on the basis of exemption or clearance under various denazification regulations which became generally applicable.

The 15 August 1945 Directive, 3/ for example, extended the denazification provisions of the 7 July 1945 Directive, "Administration of Military Government in the U.S. Zone of Germany," 4/ to influential Nazis and militarists in all walks of life and authorized control action over the properties of all persons removed or designated hostile to Allied purposes. The latter were deemed to be included in the class of persons whose properties were rendered subject to seizure or control by Military Government pursuant to General Order No. 1, issued under Military Government Law No. 52.

The "Law for Liberation from National Socialism and Militarism," 5/ enacted

1/ Military Government Regulation (MGR) 23-2050.

2/ See Annex IX, p. 65.

3/ See Annex IV, p. 50.

4/ See Annex III, p. 48.

5/ See Annex V, p. 50.

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by the German Land Governments in the U.S. Zone to replace the 15 August 1945 Directive, has continued German responsibility for denazification in accordance with principles established by Control Council Directive No. 24 "Removal from Office and from Positions of Responsibility of Nazis and of Persons Hostile to Allied Purposes."

The policy of Military Government has been to retain properties of a duress nature under control pending final settlement of the case before Restitution authorities, as provided for under Military Government Law No. 59. An exception to this policy has been in the application of MGR Title 17-501, 1/ which authorizes the release of properties of insignificant value, if said properties could be adequately safeguarded by other means, i.e. blocking of transfer of title.

Promulgation of Military Government Law No. 59 2/

Upon request of Military Government, the Laenderrat, through its Property Control Committee, with the assistance of Military Government officials, prepared the draft of a law providing for the restitution of identifiable property which, for reasons of race, religion, nationality, ideology, or political opposition to National Socialism, was a subject of transfer under duress during the Nazi regime. In March 1947, the substance of this draft was approved by the Property Disposition Board, OMGUS, in which all interested functional divisions were represented.

In submitting the law, the Laenderrat made the following comments:

- a. That a just settlement of restitution could not be achieved without enacting a uniform restitution law in all four zones, and that a law limited to one zone gave rise to serious apprehensions;
- b. That the draft law failed to allow the Restitution Tribunals such freedom of action as required to safeguard an equitable treatment of the individual cases on their merits;
- c. That the provisions of the draft law would lead to hardship for honest persons who had acquired the property in good faith;
- d. That the time limit it allows for filing of restitution claims until 31 December 1948 was too long.

Military Government submitted a paper to the Allied Control Authority in April 1947, proposing a uniform restitution law for Germany based on the Laenderrat draft. After discussions of this proposal for over seven months, it was clear that quadripartite agreement was impossible. Discussions then proceeded with a view to reaching agreement with British Military Government on a bizonal law, but it appeared that such an agreement was also not possible in the near future. To avoid further delay, it was decided to proceed with the promulgation of a restitution law for the U.S. Zone on a unilateral basis.

Because of certain agreements reached with the British Element, and in some cases with the other powers, in respect to some of the provisions of the draft law, certain changes were suggested in the Laenderrat draft which incorporated these agreements and did tend to alleviate the apprehension expressed by the Laenderrat. On 3 October 1947, the Laenderrat was asked whether the four Ministers President constituting the Laenderrat were prepared to promulgate in their respective Laender a law based on the draft submitted by the Laenderrat as modified in the manner indicated above. On 7 October 1947, the Laenderrat could not reach a unanimous decision and it appeared to Military Government observers unlikely that the Laenderrat would ever agree to approve the enactment of a restitution law which would be limited to the U.S. Zone only. Therefore, Military Government advised the Laenderrat of its intention to promulgate the restitution law as Military Government Law No. 59 on 10 November 1947.

1/ See Annex VI, p. 52.

2/ See Annex XIII, p. 72.

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Military Government Law No. 59 is based on the original Laenderrat draft, with necessary modifications so as to correspond to agreements reached on some provisions with the other powers, and others which were necessary to remove certain technical defects from the draft law.

On the same date, 10 November 1947, the Central Filing Agency provided for in the law was established and commenced operations at Bad Nauheim (Hesse). Subsequently and successively, Bremen, Hesse, Wuerttemberg-Baden, and Bavaria passed the necessary implementing legislation establishing restitution agencies in the respective Laender of the U.S. Zone.

Military Government Law No. 59 provides for filing of petitions with the Central Filing Agency for the restitution of identifiable property. The expiration date for such filing was 31 December 1948.

With a view to securing all possible information concerning properties which had been transferred under duress circumstances, the law also provided for the submission of reports by present owners of duress properties, or by persons or financial institutions having any information concerning transfers of property under duress circumstances.

The principle that duress properties should not escheat to the state because of the lack of heirs or successors in interest was also recognized in the law which provided for the establishment and appointment of successor organizations. This was accomplished by Regulation No. 3 under the law passed on 23 June 1948. On the same date the Jewish Restitution Successor Organization, representing all leading Jewish organizations of the world interested in the establishment of an adequate restitution program, was authorized by Military Government to claim all heirless and unclaimed Jewish properties.

Organization and Administration of Restitution Program under Military Government Law No. 59

The law provides for the establishment of Restitution Agencies, initially charged with the responsibility of trying to effect amicable settlements of claims between the parties. If such settlements cannot be attained, the claims are then referred to restitution chambers which are part of the German court system. Appeals from the decisions of the restitution chambers may be taken by either party to the appellate courts (Oberlandesgerichte), and from the latter to the Board of Review, whose decisions are final.

The Board of Review, composed of four American judges assisted by experts on German law, was established pursuant to Regulation No. 4 to Military Government Law No. 59 passed on 2 August 1948. Appointments of the members of the Board of Review were made on 3 November 1948.

There are presently 20 Restitution Agencies, 13 Restitution Courts, and 6 Oberlandesgerichte (appellate courts) -- exclusive of the Board of Review -- in the U.S. Zone.

The Jewish Restitution Successor Organization, established at Nuremberg, with branches located in a number of cities in the different Laender of the U.S. Zone under previous authorization given by Military Government, commenced, in the first week of October 1948, the examination of approximately 80,000 reports affecting properties presumably transferred under duress circumstances. Information secured from these reports has provided a basis for the preparation of petitions. As a result, approximately 165,000 petitions were filed with the Central Filing Agency prior to 31 December 1948, the expiration date for the filing of petitions under Military Government Law No. 59, in connection with every Jewish property reportedly transferred between 30 January 1933 and 8 May 1945.

In the middle of November 1948 authorization was issued for similar examination of the reports on file with the Central Filing Agency by accredited representa-

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tives of approximately 14 Military Missions and Consulates of foreign nations.

Difficulties affecting the satisfactory perfection of claims arising from restrictions on remittances or payment of expenses or services of attorneys, the transmittal of information by air mail, and access to information contained in public records of various German governmental agencies or offices were resolved by appropriate measures and directives issued by Military Government.

Numerous requests for extension in the expiration date for the filing of petitions beyond 31 December 1948 were received by Military Government. Serious consideration has been given to these requests. It was, however, decided that any extension in the expiration date would be more detrimental to the entire program of restitution than the benefit to the comparatively few claimants would justify.

In reaching this decision, consideration was given to the many efforts of Military Government to secure publicity of the law in all the countries of the world through U.S. Consulates and Missions, and military and diplomatic missions accredited to Germany.

Other considerations were the following:

- a. Claimants had 13 months in which to file;
- b. Titles to properties which may be claimed for restitution have been in a state of uncertainty for 3½ years and will remain so until the final deadline for filing claims;
- c. Modifications of the law with respect to time for filing may lead to requests from various sources to make other changes in the law;
- d. It was desired that all possible burdens and uncertainties imposed by Military Government on the German people and economy be terminated before the Occupation Statute 1/ becomes effective.

Most of the requests for an extension in the expiration date were based upon the argument that information considered essential to a claim was not available or accessible. This argument was not considered to be very strong, and Military Government consistently advised claimants that the provisions of the law are adequate, since minimum information only need be filed initially. A petition filed with the Central Filing Agency before 31 December 1948 and containing a description of the confiscated property and stating as exactly as possible the time, place, and circumstances of the confiscation and the names and addresses of all persons having, or claiming to have, an interest in the property would be sufficient to bring their claim within the statute of limitations. Any further information that might be required for settlement or adjudication of the claim could be submitted thereafter to the Restitution Agencies or Restitution Courts, as required.

For the foregoing reasons, Military Government did not extend the expiration date for the filing of claims.

A comprehensive reporting system designed to provide pertinent information as to the status and progress of every claim, and to indicate the progress made by the various Restitution authorities, was placed in operation in the early part of 1949. Supervisory authority will therefore be enabled to notice trends and to spot weaknesses or bottle-necks and be permitted to take early corrective action where required. The reporting and control system was designed to enable close supervision with a minimum of Military Government personnel.

1/ The Occupation Statute defines the powers to be retained by the Western occupation authorities after the establishment of the Federal Republic of Germany. The document was delivered to the Parliamentary Council on 10 April 1949.

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Modification of Property Control Policy Subsequent to Military Government Law No. 59

Subsequent to the enactment of Military Government Law No. 59 (10 November 1947), and after passage of a period of time considered sufficient for the dissemination of knowledge of its provisions, a further modification in policy was deemed advisable. By a directive issued 15 July 1949, Property Control action was directed thereafter only in those cases where notice of the filing of petitions under Military Government Law No. 59 with the Central Filing Agency was received. A further directive issued 3 August 1948, however, authorized exercise of Property Control action, notwithstanding the fact that no petition had been filed with the Central Filing Agency under Military Government Law No. 59, if it appeared that irreparable damage might be done to a claimant's interests unless the property were taken into control.

Pending final disposition of claims or petitions under Military Government Law No. 59, properties under control will be managed efficiently and impartially. Of the 220,551 petitions received by the Central Filing Agency, 206,279 had been forwarded as of 30 June 1949 to local Restitution authorities for final adjudication.

Status of Restitution Program -- 30 June 1949

Duress properties under control as of 30 June 1949 numbered 30,333.

Restitution Petitions Received by the Central Filing Agency U.S.-Occupied Area As of 30 June 1949

TOTAL	<u>220,551</u>
Complete from claimants	52,153
Incomplete from claimants	2,016
Petitions from Jewish Restitution Successor Organization (JRSO)	163,262
Petitions from public prosecutor	<u>3,120</u>

The progress of the cases through the Restitution Agencies and other Restitution authorities is most encouraging. As of 30 June 1949, 37,428 petitions were actually received by the various Restitution Agencies. Of these, 9,672 are available for final disposition in view of the fact that service, as required under the law, is complete. Of these cases, 2,383, or 24.6 percent of those available for final disposition, have been finally disposed of as follows:

Disposition of Restitution Petitions U.S.-Occupied Area As of 30 June 1949

TOTAL	2,383
Amicable Settlements	985
Petitions granted by Restitution Agencies and not appealed	133
Petitions dismissed by Restitution Agencies, Restitution Chambers, & Oberlandesgerichte, a/ and not appealed	512
Petitions withdrawn from Restitution Agencies, Restitution Chambers, & Oberlandesgerichte	633
Decisions of Restitution Chambers, not appealed	115
Decisions of Oberlandesgerichte, not appealed	<u>5</u>

a/ Appellate courts.

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Restitution in Berlin and British and French Zones

Military Government Law No. 59 is, at present, not applicable to the U.S. Sector of Berlin. However, on 16 February 1949, an order was issued by the Allied Kommandatura to the Oberbuergermeister of the city of Berlin, providing for the establishment of a Central Filing Agency to receive reports and claims pertaining to property located in the three Western Sectors of Berlin transferred under duress. Negotiations with British and French authorities continued, and early in July 1949 a restitution law for the three Western Sectors of Berlin was promulgated. With very few exceptions this uniform law is the same as U.S. Military Government Law No. 59.

A filing of restitution claims in the British Zone is presently covered by General Order No. 10, which provides that claimants have until 31 December 1949 to file restitution claims. British officials request that all claims be filed directly with Das Zentralamt fuer Vermoegensverwaltung (Central Office for Property Administration), British Zone, Bad Nenndorf, Lower Saxony.

Early in 1949, British Military Government authorities promulgated a restitution law in their zone almost identical with the restitution law in the U.S. Zone, and also identified by the same number, namely, British Military Government Law No. 59.

Only claims in excess of 1,000 marks will be considered under General Order No. 10. All persons who have any knowledge of property changing title under duress in excess of 1,000 marks since 30 January 1933 were required to make declaration to the administrative head (Landrat) of the rural district (Landkreis) or to the chief mayor (Oberbuergermeister) of the municipality (Stadtkreis) in which he or she resided.

In the French Zone, all claims for restitution have to be filed within 18 months of date of enactment of Ordinance No. 120, which became effective 10 November 1947. The French have established special courts in each Land to try restitution cases. These courts consist of a presiding judge and two other members, and the courts have exclusive jurisdiction over all restitution cases. Claims for real property must be filed with the court in the district in which the property is located. Claims for restitution of personal property must be filed with the court in the district where the person has his regular place of residence.

Status of Restitution under a General Claims Law

In the U.S. Zone, the Laenderrat, pursuant to request of Military Government, has prepared and submitted a General Claims Law. Said law was finally approved by Military Government.

To date no comparable action has been taken in the British Zone. In the French Zone, the redress of wrongs resulting in damages or personal injuries, not connected with claims for the restitution of identifiable property, has been charged as a German responsibility under Ordinance No. 164.

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PROPERTY CONTROL

ANNEX I

POTSDAM AGREEMENT 1/

(Excerpt)

The basic objectives of the occupation are set forth in the Preamble to the Potsdam Agreement as follows:

"German militarism and Nazism will be extirpated and the Allies will take in agreement together, now and in the future, the other measures necessary to assure that Germany never again will threaten her neighbors or the peace of the world."

With respect to the control of property in Germany, Paragraph 3 (b) states:

"All arms, ammunitions and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunitions and implements of war shall be prevented."

Paragraph 11, introducing the portion of the agreement relating to Economic Principles, stipulates that:

"....Productive capacity not needed for permitted production (as defined elsewhere) shall be removed in accordance with reparations plan recommended by the Allied Commission on Reparations and approved by the governments concerned or, if not removed, shall be destroyed."

Implicit in Sub-Paragraph 3 (iii) calling for the destruction of the Nazi party is the decision to take control and ultimately redistribute or otherwise dispose of the property of the party and its subsidiary organizations. Similarly, the punishment of war criminals, as required by Paragraph 5, and the removal of members of the Nazi party from positions of importance, as required by Paragraph 6, suggest the decision to take control and ultimately to dispose of property of some persons in these classes. Furthermore, Paragraph 12, calling for the decentralization of the economy, clearly contemplates first the control and finally the disposition of some business properties regardless of their nature or the culpability, as Nazis, of their owners.

As a check against indiscriminate or unduly vengeful punishment, the three signatories to the Agreement decided that, insofar as practicable, Germans shall be treated uniformly throughout Germany; that during the occupation Germany shall be treated as an economic unit; and that the Germans shall be given an opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis.

Paragraph 18 states:

"Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under control of United Nations which have taken part in the war against Germany."

1/ Report of the Tripartite Conference of Berlin, Berlin Protocol or Declaration of Potsdam, dated 2 August 1945.

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ANNEX II

JCS DIRECTIVE 1067/6 1/

(Excerpt)

JCS Directive 1067/6 is the basic authority for the control of property in Germany. Paragraph 48 e of this Directive directs the Zone Commander as follows:

"You will impound or block all gold, silver, currencies, securities, accounts in financial institutions, credits, valuable papers, and all other assets falling within the following categories:

- (1) Property owned or controlled directly or indirectly, in whole or in part, by any of the following:
 - (a) The German Reich, or any of the Laender, Gaue or provinces, any Kreis, Municipality or other similar subdivision; or any agency or instrumentality of any of them including all utilities, undertakings, public corporations or monopolies under the control of any of the above;
 - (b) Governments, nationals or residents of other nations, including those of territories occupied by them, at war with any of the United Nations at any time since 1 September 1939;
 - (c) The Nazi party, its formations, affiliated associations and supervised organizations, its officials, leading members and supporters;
 - (d) All organizations, clubs or other associations prohibited or dissolved by military government;
 - (e) Absentee owners of non-German nationality including United Nations and neutral governments and Germans outside of Germany;
 - (f) Any institution dedicated to public worship, charity, education or the arts and sciences which has been used by the Nazi party to further its interests or to cloak its activities;
 - (g) Persons subject to arrest (as defined in the Directive) ... and all other persons specified by military government by inclusion in lists or otherwise."
- (2) Property which has been the subject of transfer under duress or wrongful acts of confiscation, disposition or spoliation, whether pursuant to legislation or by procedure purporting to follow forms of law or otherwise.
- (3) Works of art or cultural material of value or importance, regardless of the ownership thereof.

"You will take such action as will insure that any impounded or blocked assets will be dealt with only as permitted under licenses or other instructions which you may issue. In the case particularly of property blocked under (1) (a) above, you will proceed to adopt licensing measures which while maintaining such property under surveillance would permit its use in consonance with this directive. In the case of property blocked under (2) above, you will institute measures for prompt restitution, in conformity with the objectives (of the occupation) ... and subject to appropriate safeguards to prevent the cloaking of Nazi and militaristic influence."

1/ Directive to Commander-in-Chief of U.S. Forces of Occupation regarding the Military Government of Germany (JCS 1067/6), 26 April 1945.

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The Directive contains other specific provisions with respect to certain types of property, as follows:

- "6. d. Property, real and personal, owned or controlled by the Nazi party, its formations, affiliated associations and supervised organizations, and by all persons subject to arrest (as defined in the directive) ... and found within your zone, will be taken under your control, pending a decision by the Control Council or higher authority as to its eventual disposition.
- e. All archives, monuments and museums of Nazi inception, or which are devoted to the perpetuation of German militarism will be taken under your control and their properties held, pending decision as to their disposition by the Control Council.
- f. You will make special efforts to preserve from destruction, and take under your control records, plans, books, documents, papers, files, and scientific, industrial and other information and data belonging to or controlled by the following: (There follows a list including the German Government, the Nazi party, police organizations, important economic organizations, etc.)"
- "15. ... You will make all reasonable efforts to preserve historical archives, museums, libraries and works of art."
- "28. You will direct the German authorities to utilize large landed estates and public lands in a manner which will facilitate the accommodation and settlement of Germans and others or increase agricultural output.
- 29. You will protect from destruction by the Germans, and maintain for such disposition as is determined by this or other directives or by the Control Council, all plants, equipment, patents and other property and all books and records of large German industrial companies, and trade and research associations that have been essential to the German war effort of the German economy."

Paragraph 30 states that the Control Council should seize and safeguard all facilities used in the production of arms, ammunition and implements of war, all types of aircraft, and parts and components therefor, merchant ships, synthetic rubber and oil, and aluminum and magnesium, and should dispose of them as follows:

- "(1) remove all these required for reparation;
- "(2) destroy all these not transferred for reparation if they are specially adapted to the production of the items specified (above) ... and are not of the type generally used in industries permitted for the Germans. (Cases of doubt to be resolved in favor of destruction);
- "(3) hold the balance for disposal in accordance with instructions which will be sent to you;

"Pending agreement in the Control Council, you will take these measures in your own zone ..."

- "32. Pending final Allied agreements on reparations and on control or elimination of German industries that can be utilized for war production, the Control Council should ...

- c. safeguard plant and equipment in such industries for transfer on reparation account."

- "49. (a) Seek out and reduce to the possession and control of a special agency all German (public and private) foreign exchange and external assets of every kind and description located within or outside Germany."

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ANNEX III

ADMINISTRATION OF MILITARY GOVERNMENT IN THE U. S. ZONE OF GERMANY 1/

Excerpt, Section XVII, "Blocking and Control of Property";

"1. Classes of Property to be restricted.

You will continue to enforce measures previously taken to prevent, except as permitted under licenses or other instructions previously issued or hereafter issued, any transaction or other dealing in any:

a. Property owned or controlled directly or indirectly, in whole or in part, by any of the following:

- (1) The German Reich, or any of the Laender, Gaue or Provinces, or other similar political subdivisions or any agency or instrumentality thereof, including all utilities, undertakings, public corporations or monopolies under control of any of the above;
- (2) Governments, nationals or residents of nations, other than Germany, which have been at war with any of the United Nations at any time since September 1, 1939, and governments, nationals and residents of territories which have been occupied since that date by such nations or by Germany;
- (3) The NSDAP, all offices, departments, agencies and organizations forming part of it, attached to, or controlled by it; their officials, and such of their leading members and supporters as may be known to you or be specified by this Headquarters;
- (4) All persons while held under detention or any other type of custody by you;
- (5) All organizations, clubs or other associations prohibited or dissolved by Military Government;
- (6) Absentee owners of non-German nationality, including United Nations, and neutral governments, or their nationals, and Germans outside of Germany;
- (7) Any Kreis, municipality or other similar local subdivision;
- (8) Any institution dedicated to public worship, charity, education or the arts and sciences, which has been used by the Nazi party to further its interests or to cloak its activities; and

b. Property which has been the subject of transfer under duress, wrongful act of confiscation, dispossession or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise;

c. Works of art or cultural material of value or importance, regardless of the ownership thereof.

"2. Classes of Property to be Taken under Control.

You will also take into your control, custody or possession and hold and administer until you are otherwise directed, the following categories of property:

a. Properties indicated in Par 1 a (1), when the governmental agency using them has been abolished by Military Government.

1/ USFET Directive to Commanding Generals, Military Districts, 7 July 1945.

PROPERTY CONTROL

- b. Such properties indicated in Par 1 a (2) as are owned by the Japanese Nation or nationals and by the former Austrian state and nationals.
- c. All properties indicated in Par 1 a (3).
- d. All properties indicated in Par 1 a (4) except furniture, clothing and other personal effects. Personal effects, if known to be looted, will also be taken under control.
- e. All properties indicated in Pars 1 a (6) and 1 b."

In addition to the general directions contained in Section XVII of the Directive (later replaced by Title 17 of Military Government Regulations), there are other more specific provisions relating to property control. For example:

- (a) The property of the Nazi Youth Organization is to be sequestered and its use by approved educational authorities permitted. (Section VII, Part 1, Par 12)
- (b) Property of the DAF is to remain in the custody of the Military Government. (Section IV, Part 1, Par 3 b)
- (c) The payment of pensions to certain persons is terminated. (Section XVI, Part 5, Par 1 j)
- (d) Payment of unemployment relief is to be suspended and the Reich Fund for Labor Allocation is to be held in suspense pending decision as to final disposition. (Section IV, Part 2, Par 3)
- (e) Property of abolished police, fire and civil defense agencies is to be distributed appropriately among newly created police and fire agencies. (Section VIII, Part 1, Par 2 c)
- (f) Public lands are to be used by the German authorities in such a way as to facilitate the accommodation and settlement of Germans and others or to increase agricultural output. (Section XI, Part 1, Par 11)
- (g) Real property normally used for religious purposes, seized by the Nazis and diverted from church use, is to be put in custody of former church owners pending decision as to its ultimate disposition. (Section VII, Part 2, Par 3)
- (h) Section XVIII sets forth measures for the control of monuments, fine arts and archives.
- (i) Claims for restitution submitted by German nationals are to be disposed of through appropriate German Courts when such Courts have been established by Military Government. Other claimants for restitution will be advised to submit claims through the government of the territory wherein the claimed object had its situs. (Section XIX, Part 2, Par 3)

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ANNEX IV

REMOVAL OF NAZIS AND MILITARISTS 1/

(Summary Excerpt)

The 15 August Directive extends the denazification provisions of the 7 July Directive 2/ to influential Nazis and Militarists in all walks of life. Furthermore, the property of all persons designated hostile to Allied purposes is declared to be within Section II, par 45, of General Order No. 1 issued under Military Government Law No. 52 (see below), which renders such property subject to seizure of possession, direction, management, supervision, or other control by Military Government. Such property may not be dealt with except under Military Government license, and the funds of persons described in the Directive are blocked, subject to limited withdrawals or transfers under general licenses.

The Directive did not require that property of persons removed or designated as hostile to Allied purposes be taken under control immediately, but a report was required concerning the need for taking it under control.

ANNEX V

(GERMAN) LAW FOR LIBERATION FROM NATIONAL SOCIALISM AND MILITARISM (5 March 1946)

(Excerpt)

This Law, approved for promulgation by the Land Governments in the U.S. Zone, supersedes the 15 August 1945 Directive and provides for assumption of denazification responsibility by the Germans in accordance with principles established by Control Council Directive No. 24. Pertinent provisions of the Law are as follows:

"Sanctions

.....

Article 15

"The following sanctions will be imposed upon major offenders:

- (2) Their property shall be confiscated for reparation purposes. However, there shall be left to them an amount necessary to cover the bare existence after taking into consideration family conditions and earning power. They will be subject to current special contributions to a fund of reparations as far as they have an income.

Article 16

"Sanctions against offenders:

- (3) Their property is to be confiscated as a contribution for reparation, either as a whole or in part. In case the whole property is confiscated the second sentence of section 2 of Article 15 hereof shall be applied. In case the property is confiscated in part, capital goods (Sachwerte) should be preferred. The necessary items for daily use shall be left to them.

1/ USFET Letter to Commanding Generals, 15 August 1945.

2/ See Annex III.

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Article 17

"Sanctions against lesser offenders:

- (2) In the event the lesser offender is the owner of an independent enterprise, or any share therein, at the time of his classification, his interest in such enterprise will be blocked during the period of his probation and a trustee appointed therefor. The Tribunal will direct what part, if any, of the income received by the trustee will be paid over to the lesser offender. Ultimate disposition of the property so blocked will be determined at the time of final classification of the lesser offender.

The term enterprise as used in paragraphs (10 (a) and (2) of this article shall not include small undertakings, especially undertakings of craftsmen, retail shops, farms and like undertakings, having less than 10 employees.

- (3) Property values, acquisition of which rested upon use of political connections or special national socialistic measures such as aryanization and armament, shall be confiscated.
- (4) Special single or recurrent contributions to funds for reparations shall be ordered.

Article 18

"Sanctions against followers:

- (1) Followers shall be ordered to pay special single or recurrent contributions to funds for reparations. There shall be taken into consideration the follower's length of membership fees and other contributions, his property, income, and family contributions, as well as other similar factors."

The word "reparation" used in the sanction provisions does not refer to the general reparations program. It should be read, rather, in the light of the first paragraph of Article 1 of the Law which states as follows:

Article 1

- "1. To liberate our nation from national socialism and militarism and ensure permanent foundations for a German democratic state life in peace with the world, all those who have actively supported the national socialistic tyranny or are guilty of having violated the principles of justice and humanity or of having selfishly exploited the conditions thus created, shall be excluded from any influence upon public, economic and cultural life and shall be obligated to make reparations."

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ANNEX VI

TITLE 17 PROPERTY CONTROL

17-1

Scope of Property Control. — Property Control concerns the establishment of control over the properties of persons and organizations set forth in MG Law No. 52, as amended, and of organizations set in the Appendix to Control Council Law No. 2, and such properties as may from time to time be specified in directives. Property Control is considered an interim measure pending ultimate disposition.

(Nothing in this Title will be interpreted to abrogate directives of USFET/EUCOM, relative to the control of property of United Nations Displaced Persons and those assimilated to them in status (UNDP's) within the U. S. Zone of Occupation in Germany.)

PART 1 GENERAL

SECTION A

17-100

Objectives and General Policies of Property Control.

17-100.1

General. — The objective of Property Control is to ensure that, pending ultimate disposition of property taken into custody, such property will be safeguarded and maintained without substantial depreciation in value of assets.

17-100.2

Objectives of Property Control. — The control of property is a necessary step in accomplishing important ultimate objectives of the occupation, including denazification, demilitarization, concomitant deindustrialization, restitution, reparations, and relief. In carrying out denazification, demilitarization, and deindustrialization, control is taken to remove designated persons and organizations from positions of power and influence. In accomplishing restitution, reparations, and relief, control is taken to provide ultimate aid to Nations and individuals who were victims of Nazi oppression.

17-101

Purpose of Title. — This Title sets forth the objectives and policies and prescribes the rules and procedures which will be followed by MG officers in the U. S. Zone in the supervision of and the control of property. It will also govern the German authorities in regard to custody and operational management of properties for which they are to be made responsible.

17-102

Scope of Title.

a. Under directives of 17 May 1946, "Transfer of Property Control Responsibilities in Greater-Hesse and Württemberg-Baden to Land Minister Presidents," C/S, OMGUS, 7 June 1946, "Transfer of Property Control Responsibilities in Greater-Hesse to Land

Minister President," C/S, OMGUS, 11 September 1946, "Transfer of Property Control Responsibilities in Bavaria to Land Minister Presidents," C/S, OMGUS, 11 September 1946, "Transfer of Property Control Responsibilities in Bremen to the Oberfinanzpräsident," C/S, OMGUS, responsibility for custody and administration of all property under MG control was transferred to the various Länder of the U. S. Zone. This program of transfer of responsibility relates to custody and administration only; disposition of property being retained as an MG responsibility subject to the regulations set forth in this Title.

b. Insofar as custody and administration of property is concerned the regulations set forth in this Title shall apply only until such time as German authorities promulgate their own regulations for custody and administration of property and said regulations are approved by Military Government. At that time parts of this Title concerned with the above subject matter will be deleted from the Title.

SECTION B

DEFINITIONS AND ABBREVIATIONS

17-110

Chief, Property Control Branch. — The Chief, Property Control Branch (CPCB), is the senior Property Control Officer in the U. S. Zone.

17-111

Deputy Chief, Property Control Branch. — The Deputy Chief, Property Control Branch (DCPCB), is the second senior Property Control Officer in the U. S. Zone.

17-112

Land Property Control Chief. — The Land Property Control Chief (LPCC) is the senior MG Property Control Officer at Land level.

17-113

Land Property Control Assistant Chief. — The Land Property Control Assistant Chief (LPCAC) is the second senior Property Control Officer at Land level.

17-114

Property Controller. — The Property Controller is the field representative of the LPCC.

17-115

German Property Control Agencies.

17-116.1

Land Civilian Agency Head. — Land Civilian Agency Head (LCAH) is the head of the German Property Control Office at Land level.

17-116.2

Regierungsbezirk Civilian Agency Head. — Regierungsbezirk Civilian Agency Head (RCAH), if established, is the head of the German Property Control Office at Regierungsbezirk level.

17-116.3

Civilian Agency Head. — Civilian Agency Head (CAH) is the head of the German Property Control Office at Kreis level.

17-117

Definitions under MG Law No. 52.

17-117.1

"Persons" shall mean any natural persons, collective persons, juristic persons under public or private law, and any government including all political sub-divisions, public corporations, agencies, and instrumentalities thereof.

17-117.2

"Business enterprise" shall mean any person as above defined engaged in commercial, business, or public welfare activities.

17-117.3

A **"national"** of a state or government shall mean a subject, citizen, or partnership and any corporation or other juristic person existing under the laws of, or having a principal office in the territory of, such state or government.

17-117.4

"Germany" shall mean the area constituting "Das Deutsche Reich" as it existed on 31 December 1937.

17-118

Property Funds. — Property funds are funds received as a result of exercising Property Control functions. Property funds do not include bank or other accounts existing as separate entities (i. e., accounts wholly unrelated to properties under control) which are blocked or frozen by MG officers exercising financial functions. Only bank or other accounts belonging to a property or individuals whose property is taken into Property Control custody are considered as property funds.

17-119

Properties Defined.

a. An **"operating property"** is any manufacturing, sales or service enterprise under Property Control which utilizes raw materials, inventories, labor, and/or skilled or professional services in its normal business operations, and such activities constitute the source of the major portion of its gross income. The term **"operating property"** also includes any inactive business enterprises of the categories described in the preceding definition which are potentially operative. In the case of United Nations and Neutrals property, the property is to be operated only after proper clearance with the Director, Finance Division, through the CPCE, under the supervision of a duly appointed custodian.

Examples:

(1) Manufacturing: Steel mills, canning factories.

(2) Sales: Wholesalers, retailers.

(3) Service: Banks, insurance companies, public accounting firms, etc.

b. **"Other income producing properties"** will include rentable properties, securities, patents, trademarks and other aspects of a similar nature. All income producing properties other than those included under par. a above will be included in this category. A rentable property is one whose income is derived from leasing fixed assets. A property not presently income producing because of the necessity of reasonable repairs or because of the temporary lack of a suitable tenant, but which is potentially income producing under the preceding definition will also be classified as an **"other income producing property."**

c. A **"non-income producing property"** is any property under control which due to its nature or condition cannot be expected to be used in business or produce either rental income or other income of any description.

Examples:

(1) Business establishments, apartment houses, or dwelling houses which are damaged beyond recovery.

(2) All other property not classifiable as operating or other income producing.

SECTION C

MEANING OF "PROPERTY CONTROL"

17-120

Property Control. — The term **"Property Control"** denotes the establishment and maintenance of control in and over specified categories of property of persons and organizations described and defined in MG Law No. 52 (see MGR 23-332), the organizations set forth in the appendix to Control Council Law No. 2 (see MGR 23-121.2), General Order No. 1 and supplements thereto issued pursuant to MG Law No. 52 (see MGR 23-332, through 23-332.1.2), and such other properties as may be made subject to control from time to time by competent authority.

17-121

What Property Control Includes. — Property Control may include use, possession, custody, occupancy, protection, title, maintenance, conservation, supervision and may be operated through custodians duly appointed by the LCAH in the case of German property and through custodians duly appointed by him and approved by the LPCC, as to property of United Nations and Neutrals.

17-122

Taking Title. — Property Control does not normally include taking title to property.

17-123

Type of Control. — As to United Nations and Neutrals properties, the type of control imposed at any time is a matter within the discretion of the LPCC unless otherwise specifically indicated by a higher authority.

As to German properties, the type of control imposed at any time is a matter within the discretion of the LCAH unless otherwise specifically indicated by Military Government.

In either case, local determination is desirable because the control to be exercised may vary according to the nature and circumstances of each case.

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17-124

Primary Doctrine. — Property Control will not be exercised over properties not embraced in MGR 17-300 below unless specifically authorized by the CPGB or directed otherwise in the Regulations herein. Property control will not apply under any circumstances with respect to properties which are primarily of concern to the U.S. Army or Navy or branches of Military Government having sole jurisdiction over properties vested in said branches. Control will not be exercised over enemy war installations or material unless not wanted by authorized branches of the Army or Navy, nor over any properties desired for use or operation by other authorized branches and agencies of the U.S. occupational forces and Military Government, even though such properties would otherwise come within the scope of MGR 17-300.

However, formal control and custody may be taken when property is released by the Army, Navy or other branches of Military Government, it being understood that such property may be derequisitioned and returned to the German economy without placing such properties under Property Control.

17-125

Application of Doctrine to Certain Situations. — In the absence of instructions from the Director, Finance Division, the functions of Property Control do not apply to the following:

- a. Operation of railroads by Transportation Corps;
- b. Operation of PTT equipment by Signal Corps;
- c. Operation of docks by Navy;
- d. Use of buildings by U.S. agencies or personnel for offices and billets; and
- e. Control over foreign exchange transactions, the blocking of deposits in banks or other financial institutions, or the blocking of negotiable instruments such as securities, bonds, etc. which are not associated with real properties or other properties normally taken into Property Control custody and which are adequately safeguarded and no practical gain is achieved through taking them into control.

SECTION D

GENERAL PLAN OF ADMINISTRATION AND SUPERVISION PURSUANT TO TRANSFER TO GERMAN AUTHORITIES.

17-126

Transfer to German Administration: Authority and responsibility for administration of the Property Control program has been transferred to German authorities subject to observation and inspection by and reports to the Property Control Branch to assure proper attainment of MG objectives. Authority over substantive rules governing property control has not been transferred to the German authorities. The German government in each Land in the U.S. zone shall have the responsibility for administration subject to such substantive rules as are or may be established by Military Government and to compliance with Military Government in respect to inspection and reports.

As part of the transfer of administrative responsibility to the German governments, they are authorized to develop their own plans for administrative organization and operation to be submitted to the Property Control Branch for approval to determine its adequacy to accomplish MG objectives. Pending the submission of such plans, it is necessary to provide an administrative system, and those sections in this chapter which deal with administrative details of organization and operation are continued in effect pending acceptance of a modification thereto or a substitute plan originating with a Land government.

17-127

German Property Control Offices and Officials. — There is established in each Kreis a German Property Control Office under the direction of a CAH and in each Land a German Property Control Office under the direction of a LCAH. There is also authorized, when required, a German Property Control Office at Regierungsbezirk level under the direction of an RCAH.

17-128.1

Line of Responsibility of German Authorities. — The CAH is responsible to and receives orders from the LCAH. Such responsibility may run directly or through the offices of the RCAH, who transmits orders of the LCAH and exercises certain additional authority as delegated by the LCAH. The LCAH is responsible to the Ministerpräsident of each Land. No other German officials shall have authority in Property Control functions.

17-129

General Manner of Supervision of German Authorities. — All MG policies, directives, and instructions on Property Control subjects, which originate at OMGUS or Land level, will be transmitted through the Land Director of OMG to the Ministerpräsident, or by the LPCC to the LCAH, their respective duly authorized agents.

17-130

All Basic Existing Laws, Directives, and Policies Unchanged. — Transfer of the Property Control program was administrative not substantive in nature, effecting merely a change of persons and offices performing particular duties. All substantive rules governing Property Control remain unaffected.

17-131

Responsibilities of Ministerpräsident. — The LCAH under the Ministerpräsident of each Land shall be responsible for the safeguarding of property under control and for the general administration of the Property Control program. He will be subject to such supervision, restrictions, audits and submittal of reports as may be required by Military Government.

17-134.1

Duties of LCAH. — The duties of the LCAH and his office shall include the following:

- a. General Responsibility for Property Control Administration. The LCAH shall be primarily responsible for proper organization to ensure effective functioning of all offices and officials in the administration of the Property Control program.

b. Focal Point for Field Operations. —

The LCAH will coordinate Property Control operations in the field. He will be responsible for primary instruction of personnel, with assistance of the MG field staff, and for disseminating to RCAH's and CAH's, regulations, orders, instructions and information generally, and implementing such advice as necessary. The LCAH will also approve custodian contracts, leases and releases of property, and sales of perishable property, within existing authority and subject to any general restrictions in these Regulations.

c. Files. —

The office of the LCAH will maintain files of prescribed MG/PC forms, custodian contracts, property ledgers, cash ledgers, audits, reports, correspondence, investigations, field liaison matters, and any other pertinent records or documents.

d. Accounting Section. —

The office of the LCAH will include a section, and the facilities therefor, wherein necessary auditing and accounting work may be performed.

e. Special Provision for Protection of Property of Allied Nations and Neutrals. —

The office of the LCAH shall also provide special facilities for necessary protection and control of property of Allied Nations and Neutrals and their nationals.

f. Liaison with LPCC. —

The office of the LCAH will be considered the liaison office through which Military Government at Land level will exercise such supervision of Property Control administration as may be necessary.

17-135.2

Duties of RCAH. — In general, the RCAH, if created, shall supervise and coordinate operations of each Kreis agency and all CAH's in the Regierungsbezirk. He shall also have such additional authority, duties, and responsibilities as may, within the general limitations and requirements herein, be delegated to him by the LCAH.

17-134.3

Duties of the CAH. — The duties of the CAH and his office include the following:

- a. Deciding initially which properties are subject to control and whether they should be taken under control;
- b. Taking properties under control;
- c. Appointing and removing custodians;
- d. Preparing and executing custodian contracts and fixing fees and other terms thereof, all subject to approval by the LCAH;
- e. Deciding initially questions relating to custodians, business under control, and particular operations or transactions;
- f. Administering and supervising the office of the CAH and all its functions;
- g. Signing and forwarding all necessary reports;
- h. Recording appropriately all transactions, as required on MG/PC forms. Unreported transactions will be voidable at the discretion of the LPCC;
- i. Actively assisting and cooperating with Property Controllers or other representatives of the LPCC in any inspection or audit of his office or records or any investigation relating to Property Control in his Kreis;
- j. Cooperating with Kreis MG Security and Liaison Detachments and Occupational Security Units;
- k. Carrying out any special instructions or orders transmitted to him by or through the LCAH or RCAH.

17-135

Duties of the LPCC. — The LPCC has general supervisory authority over the Property Control program in the particular Land and is responsible for its proper administration by German officials. He will ensure that his field staff accomplishes its functions of inspection, investigation, and the giving of assistance to German authorities. He will assure that Property Controllers are properly reporting matters requiring corrective or remedial action in order that he may prescribe to German officials the action to be taken.

17-136

Duties of Property Controllers. — The Property Controller is not an intermediate officer but is a field representative of the LPCC. His duties include the following:

- a. Furnishing information in particular cases and explaining important provisions of laws, regulations, and established policy;
- b. Assuring that basic rules, limitations and policy are being correctly observed and that procedure is proper and uniform;
- c. Checking on general administrative adequacy, recording, accounting and auditing;
- d. Conducting inspections and investigations, either by order of the LPCC or on his own initiative, with or without notice to the offices, officials, other persons or businesses investigated;
- e. Guarding against any
 - (1) Improper, irregular, or fraudulent transactions such as unauthorized use or disposition of assets or
 - (2) Favoritism or discrimination contrary to MG objectives;
- f. The Property Controller will cooperate with and assist the CAH in the effective implementation of Property Control functions at the Kreis level. He will act as an inspector and advise the CAH of any irregularities or procedures that are not in accord with MG policies. He will inform the CAH of all deficiencies noted; those that are not corrected locally will be reported to the LPCC. In the latter case remedial action will be initiated at Land level and appropriate instructions issued by the LCAH through German channels. In urgent cases or emergencies (e.g. to safeguard assets) Property Controllers may act immediately as circumstances require, in the name of the LPCC, but will report the facts in writing to the LPCC within 48 hours.

PROPERTY CONTROL

17-137

Restrictions on and Reservations of Authority by Military Government. — Restrictions imposed on German officials and powers reserved to and retained by MG officials are as follows:

- a. Property used by U. S. occupational forces of Military Government. — German authorities shall have no jurisdiction over property now or hereafter occupied or used by U. S. occupational forces or Military Government during the period of such occupancy or use.
- b. Property of United Nations and Neutrals. — With respect to property of United Nations and of Neutrals and their nationals, custodians may not be appointed or removed, contracts of custodians may not be consummated or cancelled, and property may not be released from control, without prior approval of the LPCC. The CAH may suspend custodians of such properties pending final action by the LPCC, but any such suspension must be reported within two days to the Property Controller.
- c. Reservation of General Authority of Supervision. — German officials at Land and lower levels will be subject to general supervision by the LPCC.

PART 2

OPERATIONAL PLAN FOR PROPERTY CONTROL

SECTION A

RELATION BETWEEN BLOCKING CONTROL AND PROPERTY CONTROL

17-210

Responsibility for Blocking Control. — Properties subject to MG Law No. 52 not actually taken under control will continue to be subject to Blocking Control under the provisions of Title 16, MGR. Such properties as are taken into custody by Property Control will no longer be subject to blocking control and will be administered entirely by Property Control. This includes blocked bank accounts which may belong to such property.

SECTION B

PROPERTY CONTROL PROCEDURE

17-230

Procedure of Establishing Control. — Whenever it is necessary to establish control over a property the following two basic steps will be taken:

- a. Post or deliver Notice of Custody — Form MG/PC 1; and
- b. Enter property on Property Records — Form MG/PC 2, and dispose of the form as directed in OMGUS, AG letter 010.6 (FD), 25 Feb 47, subject: Property Control Accounting and Auditing Procedure, and Legal Forms.

Posting the Notice of Custody does not in itself constitute taking control. Notices may be posted pending final determination as to advisability of taking control, and Notice may be removed within a reasonable period. Such preliminary postings may be resorted to in exceptional circumstances, e. g., giving temporary protection to property subject to the initial jurisdiction of other branches of Military Government. If temporary custody is to be taken, the word "temporary" will be inserted in the title of the Notice before "custody", and in the second line of the Notice "temporarily" will be inserted after "declared".

17-231

Procedure for Maintaining Control. —

17-231.1

Recording Matters Affecting Control. — When control has been established, a recording of all pertinent matters affecting the exercise of control over such property will be made. This will be done by preparing the Report of Property Transactions (Form MG/PC 3). If the property is an operating property or other income producing property which is permitted to continue operating its business, the following will be done:

- a. Deliver Property Control Letter of Instructions No. 1 — Form MG/PCO/IBE/1; and
- b. Secure financial statement of recent date and periodical financial statements.

17-231.2

Operation of Business Enterprises. — Unless otherwise directed and subject to such further limitations as may be imposed by Military Government, any business enterprise under Property Control may engage in all transactions ordinarily incidental to the normal conduct of its business activities within occupied Germany provided that such business enterprise may not engage in any transaction which, directly or indirectly, substantially diminishes or impairs the assets of such enterprise or otherwise prejudicially affects its financial position.

17-231.3

Control Through Custodians. — Property Control will normally be exercised through custodians. Acceptable custodians, managers, and operating agents of controlled properties will be authorized to engage in necessary and desirable transactions with respect thereto subject to the following overall prohibitions which may be removed in particular cases by obtaining the approval of the CPGB in the case of United Nations and Neutrals properties and the LPCC in the case of other properties:

- a. That capital assets will not be encumbered, sold or otherwise disposed of; and
- b. That operating properties will not be altered in character, nor will obligations be incurred except as incidental to the ordinary course of business; and
- c. That maximum allowances for actual living expenses to owners and their families will not exceed amounts specified in General License No. 1 — (Form MGAFL-1).

SECTION C

COORDINATION OF PROPERTY CONTROL PROGRAM WITH LAW FOR LIBERATION FROM NATIONAL SOCIALISM AND MILITARISM (MGR 24-500)

17-235

General Property Control Policy Respecting the Law for Liberation. — To accomplish Property Control objectives, Property Control procedures must be closely coordinated with the program outlined under the Law for Liberation. This coordination will entail assumption of control of property as soon as grounds appear and the retention thereof until a final decision is rendered. When an individual's status is determined by final decision of a tribunal, such decision will be respected with relation to his or her property.

17-235.1

Definition of Final Decision. — Final decision means a decision from which no appeal can be taken and which determines the status of an individual and disposition of his or her property pursuant to the Law for Liberation (MGR 24-500).

17-235.2

Policy Prior to Final Decision. — Until final decisions under the Law for Liberation, German Property Control officials will take property under control as soon as any grounds appear therefor (see MG Law No. 52 and supplement thereto and the Law for Liberation from National Socialism and Militarism), and will release property only when clearly justified by corroborated facts. In accordance with this policy of conserving property, preliminary classification, whereby individuals are placed in Class 1 or 2 by public prosecutors, will be fully and promptly respected by taking all the individual's property under control pending final decision. This permits German officials to take control or to retain control already taken, notwithstanding a decision of a tribunal which has not yet become final and which does not order confiscation.

17-235.3

Policy after Final Decision. — Final decision of tribunals will be fully respected and followed. After any final decision which does not order property confiscation, any property of the individual already under control will be released unless grounds other than political or militaristic incrimination exist for retaining control (i. e., duress property owned by an individual exonerated under the Law for Liberation). Any property of the individual not already under control will not be taken into control on grounds of political or militaristic incrimination of said individual so long as said decision remains effective.

17-235.4

Effective Actions taken after Final Decision. — Where any case is re-opened for any reason whatsoever, the case will be considered as reverting to its status before final decision. When the Minister for Political Liberation pardons an individual or vacates or modifies a final decision without ordering final disposition of the individual property, the case will also be considered as reverting to its status before final decision until the LCAH has been instructed in writing by the Minister of Political Liberation, if release of the individual property is intended.

17-236

Procedure and Steps to be taken by German Officials to Effectuate Confiscation Orders.

17-236.1

Assignment of Personnel in Office of CAH to coordinate Operation with the Law for Liberation. — The LCAH will assign one or more individuals (depending on number of acting tribunals) in the office of the CAH to effect continuous liaison with public prosecutors. These individuals, to be called Liaison officers, will be available to testify, ask questions, and offer suggestions regarding property during the proceedings.

17-236.2

Procedure Prior to Adjudication. — The following steps will be taken by the CAH prior to adjudication:

- a. Liaison officers will be ordered to secure classification lists of Class 1 and 2 offenders and deliver them to the CAH who will take prompt action to place property under control;
- b. Liaison officers will be ordered to familiarize themselves generally with information available to the public prosecutor's office and to report such information to the CAH in order to facilitate action by the CAH at the proper time.

17-236.3

Procedure after Final Decision. — The following steps will be taken by the CAH after final decision:

- a. A written copy of the final decision will be filed in the office of the CAH;
- b. If confiscation is not ordered, and if no other grounds exist for retaining control, any property of said individual then under control shall be promptly released;
- c. If the decision orders confiscation, the CAH shall act promptly in accordance therewith.

SECTION D

RELEASING PROPERTY FROM CONTROL

17-240

Occasions for Release. — LCAH's will release property from custody under the following conditions:

- a. Whenever the CPGB directs the turning over of the property to a designated person;
- b. Whenever it is determined that the property was taken into custody in error;
- c. Upon the return of an absentee owner, where control of the property was taken under Section 1 (f) of Article I of MG Law No. 52, and upon submission of acceptable proof of ownership, of citizenship, and of political reliability;

PROPERTY CONTROL

- d. Whenever the owner has been cleared, or has satisfied the sanctions, if any, imposed on him under the Law for Liberation from National Socialism and Militarism;
- e. Whenever the owner of the property, under Section 1 (d) of MG Law No. 52, has been released from detention or any other type of custody by Military Government, and the property is not otherwise within the scope of MGR 17-300 below;
- f. Whenever a turn-over award, order or instruction is received from Reparations Section or Restitutions Control Branch of Military Government (approval must be obtained in advance from the Restitution Control Branch, OMGUS (Rear), APO 757, Frankfurt-Hoechst, before Property Control officials may release any property that was removed from any one of the following occupied countries:

Albania	Hungary
Austria	Italy
Belgium	Luxembourg
Bulgaria	Netherlands
Czechoslovakia	Norway
Denmark	Poland
Finland	Roumania
France	U.S.S.R.
Greece	Yugoslavia;
- g. Whenever the property is requisitioned for use, operation, or other purpose by the occupational forces or other branches of Military Government;
- h. Upon recommendation of the Ministerpräsident of the Land, or the appropriate civil authorities in the case of Berlin Sector, with the approval of the CPCB;
- i. Whenever directed by the LPCC to release to Länder governments upon appropriate receipt, under the provisions of MGR 17-313.1.

17-241

Releases of Property to U.S. Occupational Forces and other Branches. — Property actually taken under control may thereafter be requisitioned by or turned over to the occupational forces and other branches of Military Government. In this case the LCAH will, by order of the LPCC, release the property concerned from the Property Control books by entering proper notation on the Report of Property Transactions (Form MG/PC/3). Such notation will include designation of unit or branch, name of commanding officer, date of release, statement of condition at time of release, and any other relevant information. If the property in question belongs to a United Nations Government or National thereof, such fact will be called to the attention of the commanding officer of the unit or branch to which the property is released.

17-242

Property Subject to Instructions and Orders of LCAH. — The LCAH in all cases will take the following steps whenever it is necessary to release any property, including funds, from control.

- a. In case of United Nations' and Neutrals' properties written approval of LPCC will be obtained (see MGR 17-137 b);
- b. The proper notation will be entered on the Report of Property Transaction (MG/PC/3). Such notation will include —
 - (1) Name and address of releasee,
 - (2) Release date,
 - (3) Reason and/or authority for release,
 - (4) Any other information pertaining to release, and
 - (5) Signature of LCAH;
- c. A written certificate will be secured in triplicate from the releasee in case of German etc. properties and from quadripartite of United Nations and Neutrals properties containing —
 - (1) Property serial number, description and location of property, and
 - (2) Acknowledgement of receipt of property;
- d. In the case of properties of United Nations and Neutrals, the signed original will be attached to the MG/PC/3 reporting the release and forwarded to the CPCB. The duplicate, triplicate, and quadruplicate copies will be retained by the LPCC, the LCAH, and CAH, respectively. In all other cases the signed original will be attached to the MG/PC/3 reporting the release and forwarded to the LCAH. The duplicate and triplicate will be retained by the LPCC and CAH, respectively.

PART 3

PROPERTIES TO BE CONTROLLED

SECTION A

GENERAL

17-300

General Rule. — As soon as grounds therefor appear, LCAH's will establish and maintain Property Control over all properties as defined in MGR's 17-120 and 17-121, owned or controlled, directly or indirectly, in whole or in part, by the various categories of persons and organizations described in: Article I of MG Law No. 52 except as superseded by MG Law No. 54 with respect to certain categories of property; the appendix to Control Council Law No. 2, General Order No. 1 and supplements thereto issued pursuant to Law No. 52; the organizations described by MG Law No. 5, MG Laws Nos. 77 and 191; Control Council Laws Nos. 9 and 10, subject to the limitations and exceptions stated in Title 17, MGR. Control of Property will also be assumed as provided in the Law for Liberation (MGR 24-500 and MGR 17-235) as soon as grounds appear, and such control will be retained until a final decision is rendered.

SECTION B

PROPERTIES OF THE GERMAN REICH, LÄNDER, PROVINCES, AND POLITICAL SUBDIVISIONS, THEREOF — ARTICLE I

PAR. 1 (a) OF MG LAW NO. 52

17-310

Taking Control Dependent on Dissolution of Using Agency. — LCAH's will take control over properties in this class after the German governmental agency or instrumentality concerned is no longer in existence. LCAH's will not exercise control when the properties are used to house or to facilitate normal functions of government or public services permitted by Military Government, e. g., property occupied by ministries and other departments of government, and property used as fire stations, police stations, prisons, public schools, and hospitals.

17-311

Doctrine of Primary Concern Applicable. — Initially the properties described in Article I, par. 1a, of MG Law No. 52, are the primary concern of the U.S. Army, Navy, or other branches of Military Government. Hence, LCAH's will take no action with respect to such properties except with special authorization of the Ministerpräsident concerned. Unless specifically instructed herein relative to particular types of property, LCAH's will establish control in these cases only when:

- a. Directed by the Ministerpräsident concerned, or in the case of zonal agencies by the Länderrat or by Military Government;
- b. The agency having primary concern has completed its mission or task in connection therewith and has so indicated in writing to the LCAH;
- c. The agency having primary concern has indicated that its interest in the property has ceased; or
- d. The agency having primary concern has released the property, or has arranged for its transfer to Property Control.

17-312

Specified Property is to be Considered within this Class. — In addition to the specific classes of property described in Article I, par. 1a of MG Law No. 52, the following properties are to be considered within this class and taken into control only when the provisions of MGR 17-310 and MGR 17-311 are satisfied:

- a. The Reichsbahn and other transport facilities belonging to or controlled by the Reich or any of its political subdivisions or municipalities;
- b. The post, telegraph, and telephone properties of the Reich;
- c. Castles, museums, libraries and archives;
- d. Utilities, monopolies, public undertakings and public corporations; and
- e. Public forests.

17-313

Jurisdiction of Länder over Wehrmacht Property. —

17-313.1

General. — MG Law No. 54 grants to the Land the right to possession and use of all property, both real and personal, suitable for agricultural purposes or required for accommodation or settlement of Germans and others, title to which was held by any of the following:

- a. The Supreme Command of the German Armed Forces, the German Army, Navy and Air Forces;
- b. The SA (Sturmabteilungen), NSKK (NS-Kraftfahrkorps), NSFK (NS-Fliegerkorps), SS (Schutzstaffeln) and SD (Sicherheitsdienst);
- c. The German Reich, its departments or agencies, for or in the interest of organizations listed in subpara. a. and b. above;
- d. Any officer of organizations listed under subpara. a. and b. above, in his official capacity; and
- e. Any other organization or person, for or in the interest of organizations or persons listed under subpara. a., b., and c. above.

17-313.2

Control Already Taken Over Wehrmacht Property to Continue. — MG Law No. 54 conveys to the Länder the possession and use of such property described in MGR 17-313.1 above "as is suitable for agricultural purposes or required for accommodation or settlement of Germans or others". The Law does not apply, however, to property of this nature which is now or hereafter used, occupied, or in the custody of the U.S. occupational forces or Military Government. LCAH's will continue control already taken over barracks, buildings, and other properties of the Wehrmacht.

17-313.3

Control of Additional Wehrmacht, Kriegsmarine, and Luftwaffe Properties. — All Wehrmacht, Kriegsmarine, and Luftwaffe properties, real or personal, not suitable for agricultural purposes or required for accommodation or settlement under the provisions of MG Law No. 54 will be taken into custody by LCAH's subject to the following exceptions:

- a. Property held or being used by the U. S. occupational forces; and
- b. Property held or being used by other branches or divisions of Military Government.

17-313.4

Power to Regain Possession Reserved. — Military Government reserves the power to regain possession or otherwise assume control over any properties transferred to the Länder under the Law. LPCC's will not exercise this power without the specific authority of the CPCB.

17-313.5

Reports from Länder. — The Länder government will be required to furnish the reports on all properties subject to MG Law No. 54, whether or not suitable for agricultural purposes or required for accommodation or settlement of Germans. LCAH's will forward copy of such reports to: Office of Chief, Property Control Branch, Finance Division. The report will constitute the basis for directives from the CPCB authorizing LCAH's to establish control over military properties of the German Reich or the income derived from their use.

PROPERTY CONTROL

SECTION C

PROPERTIES OF ENEMY STATES OTHER THAN GERMANY — ARTICLE I PAR. 1 (b) OF MG LAW NO. 52

17-320

General Rule. — Until further promulgations are issued by Military Government, LCAH's will only establish and maintain control over such properties described in Article I, par 1 (b), of MG Law No. 52 as are owned or controlled by the following nations or their nationals:

- a. Bulgaria,
- b. Hungary,
- c. Italy,
- d. Japan, and
- e. Rumania.

SECTION D

PROPERTIES OF NSDAP, NSDAP ORGANIZATIONS AND NSDAP OFFICIALS AND MEMBERS — ARTICLE I PAR. 1 (c) OF MG LAW NO. 52 AND APPENDIX TO CON- TROL COUNCIL LAW NO. 2

17-329

NSDAP Headquarters and Local Party Offices. — LCAH's will immediately establish and maintain control over NSDAP Headquarters and local Party offices, and properties of organizations and associations controlled by the NSDAP, as described in Article I, par 1 (c), of MG Law No. 52 and the appendix to Control Council Law No. 2 to the extent not excluded by other paragraphs from the operation of LCAH's.

17-331

Property of NSDAP Officials and Members. — LCAH's will immediately establish and maintain control over property of NSDAP officials and members or supporters included in blacklists or in accordance with Law for Liberation from National Socialism and Militarism or otherwise specified by Military Government. LCAH's will not exercise control over their essential furniture, clothing, or other personal effects unless these have in fact been obtained through duress, looting, or confiscation.

17-332

Doctrine of Primary Concern Applicable to Industrial and Commercial Property of NSDAP. — The instructions stated in MGR 17-311 above will be applied in cases relating to industrial and commercial enterprises owned or controlled by the NSDAP and organizations and associations controlled by it.

17-333

DAF Property. — LCAH's will establish and maintain control over properties of the DAF (Deutsche Arbeitsfront). The DAF properties include banks, insurance companies, publishing houses, housing and building companies, theaters, shipbuilding companies, resorts, hotels, food producing and processing plants in retail outlets, and other properties. The DAF properties were operated by huge vertical corporations. Ownership was centralized and authority emanated from a single central source.

17-334

Liaison Activity in Operation of DAF Property. — LCAH's will take control over all DAF properties located in their respective areas. They will continue the operation of all operating properties of DAF and consult from time to time with the appropriate representatives of other branches of Military Government having an interest in these properties such as Manpower, Finance, Industry, Transportation, and Trade and Commerce. If certain properties are continued in operation it is the responsibility of the LCAH to deny the personnel and sever all connection with the former DAF.

SECTION E

PROPERTIES OF DETAINED PERSONS — ARTICLE I PAR. 1 (d) OF MG LAW NO. 52

17-340

Detained Persons. — LCAH's, with the approval of the LPCC's, are authorized to exercise control over all property except furniture, clothing, or other personal effects of persons detained or held in custody by Military Government.

17-341

Exercise of Control a Local Determination. — Whether Property Control will be exercised depends on the circumstances in each case, such as the political character of the person detained or held in custody, nature of the charge or accusation leading to the detention, nature of the property owned or controlled by him, period of detention, and other pertinent data. In each case this determination will be made through the LCAH by the LPCC after consultation with the MG Legal officer, local CIC Detachment, Public Safety officer, or other detaining agency which will be in possession of pertinent facts.

17-344

Furniture, Clothing, and Personal Effects Partially Exempted. — LCAH's will not exercise any control over the furniture, clothing, and other personal effects most necessary for daily use of the detained person unless these have in fact been obtained through duress, looting, or confiscation.

SECTION F

PROPERTIES OF DISSOLVED OR SUSPENDED ORGANI- ZATIONS — ARTICLE I PAR. 1 (e) OF MG LAW NO. 52

17-350

Doctrine of Primary Concern Applies. — The instruction stated in MGR 17-311 above will guide LCAH's with regard to the application of control over the funds, accounts, records and other property of any organizations or associations suspended or dissolved by Military Government.

17-351

Laws Suspending or Dissolving Various Organizations. — LCAH's will refer to General Order No. 1, MG Law No. 5, Control Council Law No. 2, and other MG laws for information concerning the organizations and associations suspended or dissolved by Military Government.

SECTION G

PROPERTIES OF ABSENTEE OWNERS — ARTICLE I PAR. 1 (f) OF MG LAW NO. 52

17-360

Abandoned Property of German Nationals. — LCAH's will establish control over abandoned property belonging to German nationals, whether such persons are inside or outside of Germany, or where such property would otherwise come within the scope of MGR 17-300 above.

17-361

Allied Property. — LCAH's will establish control over properties owned or controlled by all Allied governments or nationals thereof, whether found abandoned or in the possession of custodians. LCAH's will consult and follow instructions of LPCC's on all pertinent matters affecting the maintenance of control over industrial and commercial properties belonging to Allied governments or their nationals.

SECTION H

ADDITIONAL PROPERTIES — ARTICLE I PAR. 1 (g) OF MG LAW NO. 52

17-370

General Policy. — LCAH's will establish and maintain control over all properties, as directed by the LPCC, to be taken into Property Control. LCAH's are encouraged to forward recommendations to the LPCC, specifying properties not presently covered in MGR 17-300 above which they believe should be taken under control (see General Order No. 1).

17-371

Established Policy on Administration of Property Utilized in Information Control. — Certain properties used for disseminating information (such as newspaper plants, publishing houses, radio stations, theaters) are subject to particular OMGUS orders. With respect to these properties, specific instructions as to taking property under control, and particular custodians to be appointed, will be furnished by the LPCC to the LCAH. Such properties will not be released to persons exonerated under the Law for Liberation without written approval of Information Control Division.

17-372

Property of Persons Removed Under MG Law No. 8. — Such property is subject to MG Law No. 52, Article II, par. 45 of General Order No. 1 (see Section 13) which provides that property of all persons removed from public or private office or position by Military Government shall be subject to MG Law No. 52. The decision as to whether this property shall be placed under control depends on the circumstances of each case. Where deemed appropriate, the LCAH will take such property under control.

SECTION I

LOOTED PROPERTY — ARTICLE I PAR. 2 OF MG LAW NO. 52

17-380

General Rule. — Except as otherwise provided in MGR 17-381 below, LCAH's will establish and maintain control over property obtained through duress, looting, or confiscation.

17-381

Works of Art. — LCAH's will exercise control over works of art when there is reason to believe that these represent a clear case of loot or confiscation, dispossession or spoliation and where custody and control is not exercised by Monuments, Fine Arts and Archives officers, as provided under Title 18, MGR.

17-382

Foreign Exchange Depository. — Property obtained through duress, looting or confiscation, which is now or hereafter placed in the custody of the Foreign Exchange Depository, will not be subject to the provisions of this Title.

PART 4

FINANCIAL ASSETS AND OTHER SPECIAL PROPERTIES

SECTION A

FINANCIAL ASSETS

17-400

Financial Assets Defined General. — The term "financial assets" includes both German and other currencies, stocks, bonds, and other securities, certificates of deposit or receipts therefor, checks, drafts, and bills of exchange, warehouse receipts, bills of lading bank books evidencing claims against banks, postal, giro or other money orders, letters of credit and other commercial paper, gold and silver coins, gold, silver, and platinum bullion or alloys in bullion form, and jewels.

17-401

Financial Assets in Germany Subject to MG Law No. 53 Defined (Foreign Exchange Assets). — Financial assets subject to MG Law No. 53 include the following:

- a. Currency other than German currency; bank balances outside Germany; and checks, drafts, bills of exchange or other instruments of payment drawn on or issued by persons outside Germany;
- b. Gold or silver coin, or gold, silver or platinum bullion or alloys thereof in bullion form;
- c. Any securities or other evidences of ownership or indebtedness issued by persons outside Germany, and securities or other evidence of ownership or indebtedness issued by persons in Germany if expressed or payable in currency other than German currency;
- d. Claims and any evidence thereof owned or held by —
 - (1) Any persons in Germany against any persons outside Germany whether expressed in German or other currency,
 - (2) Any person in Germany against any other person in Germany if expressed in a currency other than German currency,
 - (3) Any person outside Germany against another person outside Germany in which claim a person in Germany has any interest;

e. Such other property as may be determined by Military Government to be a foreign exchange asset.

17-401.1

Procedure. —

a. When the properties of any person subject to MG Law No. 52 are taken into custody, those assets which are foreign exchange assets, as defined in MGR 17-401, will not be taken into Property Control custody but will be forwarded by the CAH to the LPCC through normal channels in the case of United Nations or Neutral properties and to the LCAH in the case of German properties. The LPCC or LCAH, upon receipt of foreign exchange assets, will deposit them in a safe deposit box of the nearest Land Central Bank for safekeeping. The Land Central Bank will prepare such forms as are necessary under MG Law No. 53 for this class of assets;

b. With respect to the remainder of the property taken into custody, belonging to the same individual, which is subject to MG Law No. 52 but not MG Law No. 53, the CAH will follow through with the usual procedure for taking property under control, as prescribed in para. 20 through 22.3, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, Property Control Accounting and Auditing Procedures, and Legal Forms. For example, a CAH may take into custody a business which owns, among other assets, stocks of subsidiaries in countries other than Germany. The stocks of foreign subsidiaries in such case will be forwarded to the LPCC or LCAH for disposition prescribed by MG Law No. 53, and the remainder of the assets belonging to the business will be taken into property control custody in the usual manner.

17-402

Financial Assets not Subject to MG Law No. 53. — Financial assets not subject to MG Law No. 53 are those classes of assets specified in MGR 17-400, which do not represent foreign exchange assets as defined in MGR 17-401.1 but are subject to MG Law No. 52.

17-402.1

Procedure. —

a. CAH's will determine whether or not such financial assets are being used or are capable of being used in connection with a property taken into control which is classified as an operating property, as defined in MGR 17-119a. If the financial assets are being used or are capable of being used in connection with a trade or business, they may be held at any place of safekeeping utilized by the business for similar assets, such as a safe, vault, safe deposit box, etc., and will be subject to use by the custodian;

b. If the financial assets, other than cash, are seized in connection with a property taken into control which is classified as an other income producing or a non-income producing, as defined in MGR 17-119 b and c, respectively, and are not required to be used by the custodian in connection with the operation or upkeep of the remainder of the property, such assets will be deposited by the CAH in a safe deposit box of a bank and will be subject to withdrawal by the CAH only. The rental on the safe deposit box will be paid by the custodian if there are funds in connection with the property; otherwise, payment for rental will be effected as prescribed in MGR 17-521.3. If such assets are required by the custodian in the operation or upkeep of the property, they may be held at any place of safekeeping utilized by the custodian for this class of assets. Cash taken into control in connection with such property will be governed by the procedures prescribed in para. 30 through 32, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, "Property Control Accounting and Auditing Procedures, and Legal Forms";

c. If property subject to MG Law 52 consists solely of financial assets, or cash and financial assets, such property will not be taken into Property Control but will be deposited in a blocked account in any banking institution. Such property will thereafter be subject to blocking control only. (See MGR 17-125(e))

17-403.

Currency Abandoned by or Captured from Enemy Forces. — Currency abandoned by or captured from enemy forces generally constitutes "booty" according to rules of land warfare. CAH's will not take such currency into Property Control, but will turn it over to a U.S. Army Disbursing officer for disposition. If not acceptable by a U.S. Army Disbursing officer such currency should be delivered to the Currency Section, Foreign Exchange Depository, OMGUS (Rear), APO 757, against receipt.

17-405

Valid Currency Abandoned by Municipalities. — LPCC's or LCAH's will deposit valid currency abandoned by a municipality, or by any other governmental subdivision or body, which may come into their possession or the possession of Military Government, in the nearest branch of the Land Central Bank or approved alternate bank to the credit of the municipality.

SECTION B

DEPOSITS, SAVINGS ACCOUNTS, AND OTHER ACCOUNTS IN POST OFFICES, BANKS, AND OTHER FINANCIAL INSTITUTIONS, BEARING RELATION TO PROPERTY UNDER CONTROL.

17-410

Accounts Dependent on or Related to Property under Control. — When LCAH's establish control over property they will also establish control over any and all accounts maintained in connection with the property.

17-411

Charges against Control Accounts. — Charges against control accounts for allowable expenditure may be made subject to the restrictions of MGR 17-520 through MGR 17-524.

SECTION C

FORMER ECCLESIASTICAL PROPERTY

17-420

Claims for Restitution. — LCAH's are directed to consult in these cases with the LPCC's pending the issuance of instructions from OMGUS for handling claims for restitution.

17-421

Use by Former Owner. — LCAH's may permit the use of these properties by the original ecclesiastical owners pending their ultimate disposition. LCAH's will collect rental or other compensation for the use of such properties or may, at the recommendation of the Education and Religious Affairs officer, through the LPCC, defer (but not waive) payment of compensation until ultimate disposition is made.

SECTION D

PERISHABLE PROPERTY AND PROPERTY SUBJECT TO DETERIORATION

17-430

Sale Authorized. — The LCAH will authorize or direct the custodian, manager, or operating agent to provide the sale of property:

- a. Whenever perishable property has been taken under control;
- b. After concurrence from interested branches of Military Government, whenever property taken under control is subject to deterioration or substantial depreciation, or loss of value;
- c. Whenever the cost of the upkeep or maintenance of non-income producing property will in time amount to a sum equal to the value of the property;
- d. Upon recommendation of the Land Ministerpräsident, or the appropriate civil authorities in the case of Bremen, Wesermünde and Berlin Sector, and with the approval of CPCB.

17-431

Treatment of Proceeds from Sale. — Proceeds from sales authorized in MGR 17-430, above, will be treated in the following manner. Where the property is related to a business enterprise, the CAH will deposit the funds received in such accounts and depositories as are customarily maintained on behalf of the business. Where the property is related to or represents a property other than that of a business enterprise, he will deposit the funds in the Land Central Depository in the same manner as surplus funds, as prescribed in para. 32, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, Property Control Accounting and Auditing Procedures, and Legal Forms. In the latter case, he will also enter proper notation on the Record of Property Transactions (MG/PC 3), with the circumstances pertaining to the sale, and forward this form together with related correspondence to the LPCC in the case of United Nations and Neutral properties, or to the LCAH in the case of German properties, who will prepare a Receipt Voucher (MG/PC 4) in the manner prescribed in para. 34, OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, Property Control Accounting and Auditing Procedures, and Legal Forms.

PART 5 INSTRUCTIONS SECTION A GENERAL

17-500

Custodians. — The LCAH will not act as trustee or receiver, nor manage property except through a custodian, manager, or operating agent, without written authority from the LPCC. In general, custodians, managers, operating agents and other personnel will be retained subject to the provisions of denazification laws, regulations, and directives (see Title 24, MGR).

17-501

Application of Control Must be Reasonable. — LCAH's will do what is reasonable, depending on the circumstances of each case. They will not exercise control over properties not important or valuable enough to warrant control. The nature of the property, the necessity for control, and its condition, value, ownership, and income-producing capacity are factors to be considered in deciding whether the property is important or valuable enough to warrant control. This decision will be made by the LCAH. The LCAH will refer doubtful or border-line cases for determination by the LPCC.

17-502

Elementary Guides. — LCAH's will:

- a. Employ as many civilians as are deemed necessary to carry out Property Control function within strength authorized and fund allotments (in this regard care will be taken to comply with MG Law No. 8);
- b. Consult with functional officers and representatives of agencies interested in the operation of business enterprises taken under control;
- c. Continue existing accounting systems of operating properties if satisfactory (LCAH will change accounting system only upon written authority from the LPCC).

17-503

Coordination and Liaison with Other Agencies.

17-503.1

Necessity for Coordination. — It will be noted that a relationship exists between certain Property Control activity and the work of the U.S. occupational forces and other branches of Military Government. The exercise of control over certain properties may affect the operation of specialist officers and agencies in other fields, and to that extent have an interest in the manner in which Property Control deals with such properties. Many times the successful maintenance of control over property depends on the assistance of outside officers and agencies.

17-503.2

Relationships Concerned. — LPCC's will maintain necessary liaison and coordination with the following, and other officers and agencies concerned:

- a. The Economic Division in regard to overall policies on industrial production, overall economic controls over prices, rationing and distribution of commodities and services, agriculture, forests and fisheries;
- b. Local CIC Detachments and Public Safety Special Branches in regard to denazification of personnel, securing property information, and appointing custodians;
- c. Provost Marshall as to protection of properties against trespass by troops;
- d. G-2 personnel as to white and black lists;
- e. Corps of Engineers and Town Majors as to requisitioning property for military use;
- f. Legal personnel in case of doubt as to authority in any specific case;
- g. Monuments, Fine Arts and Archives (MFA & A) personnel for information on art works and archives which may be taken under Property Control pursuant to MGR 17-380 (LPCC's are authorized to post Notices of Custody (Form MG/PC/1) on repositories and storage places of art works and archives, when specifically requested by MFA & A officers). These Notices will be removed as soon as adequate protection and security have been established by the MFA & A personnel (see MGR 17-230);
- h. Finance personnel in regard to overall financial policies, the application of MG Law No. 53 and the application of blocking controls under MG Law No. 52; Foreign Exchange Depository;
- i. Manpower and Labor personnel in regard to the use and operation of DAF property;
- j. Education and Religious Affairs personnel in regard to the maintenance of control over former ecclesiastical and educational property, and liaison and coordination with Education and Religious Affairs personnel concerning school property and problems;
- k. Transportation personnel in regard to providing transport facilities for the operation and custody of property;
- l. Public Welfare personnel in regard to the use and operation of the property of the Nazi Party welfare organizations; and
- m. LCAH in regard to overall policies pertaining to Property Control functions of German civilian authorities.

17-503.4

MG Personnel in the Field. — Military Liaison Detachments will enter the Property Control function only in an emergency when their assistance is requested by the CAH or requested by the Land Property Control Office represented in the field.

17-504

Screening of Civilian Personnel Employed by LPCC's and LCAH's. — LPCC's and LCAH's will be held responsible for seeing that full investigation and screening is completed at the earliest possible moment to determine the efficiency and reliability of custodians, managers, operating agents, and other personnel employed in connection with the maintenance of control over property.

SECTION B FEES OF CUSTODIANS

17-510

Reasonable Fees. — Fees paid to custodians, managers, operating agents and other personnel employed by LCAH's will be reasonable and consistent with local compensation standards established for the area. When a trustee handles more than one property and his total compensation on a fee basis is exceptionally large, he should be placed on a reasonable salary.

17-511

Increasing Fees Prohibited. — When LCAH's retain existing custodians, managers, or operating agents of properties taken under control, they may authorize the payment of the existing scale of fees, if reasonable.

17-512

Fees Part of Operating Expenses. — Fees of custodians, managers, operating agents, auditors, and other personnel employed by LPCC's and LCAH's, excluding personnel who are direct employees in Property Control Offices, will be treated in the same manner as current operating expenses, and will be paid out of income derived from the operation or use of the property. Fees are to be charged against each individual property and not as a single charge against all properties under one custodian. Such fees will be shown as expenses on financial statements appropriate to the property involved.

SECTION C EXPENDITURES

17-520

Normal Expenditures Authorized. — LCAH's will authorize custodians, managers, and operating agents to make such normal expenditures as are reasonably necessary to preserve, protect, and operate the property under control.

17-521

Normal Expenditures Defined. — With respect to income producing properties, "normal expenditures" comprise all operating expenses incidental to a reasonable operation of the property.

17-521.1

Operating Properties. — The term "normal expenditures" with respect to operating properties, as defined in MGR 17-119a, includes all expenditures incidental to the normal operation of the property, including expenditures for raw materials, goods for resale, labor, taxes, fees of custodians, repairs, rent, office expenses, insurance premiums, etc. The expenditures of a business enterprise will in all cases conform to the limitations imposed by Article 4, MG Law No. 52. In the case of partnerships and single proprietorships, a reasonable amount payable to the owners of a property and their families, not to exceed the maximum allowed by General License No. 1, will also be considered a normal expenditure.

17-521.2

Other Income Producing Properties. — The term "normal expenditures" with respect to other income producing properties, as defined in MGR 17-119b, includes necessary expenditures incidental

to the maintenance and up-keep of the property, such as ordinary repairs, taxes, wages of caretakers, insurance premiums, fees of custodians, etc. The expenditures of an other income producing property will in all cases conform to the limitation imposed by Article 4, MG Law No. 52. A reasonable amount payable to the owners of a property and their family, not to exceed the maximum allowed by General License No. 1, will also be considered a normal expenditure.

Custodians, managers, and operating agents will not incur, in any month, expenditures which will exceed the income of the property for that month without a specific prior approval for such expenditures from the LPCC in the case of United Nations and Neutrals properties and from the LCAH in the case of German properties. Such approval will be obtained by the most expeditious means and need not be in writing. However, the LCAH will keep a record of such approval, with reasons therefor, and, in forwarding any custodian financial report (MG/PC/5/F) which shows an excess of expenditures in income, will note in the indorsement the cause of such excess and the reason for having given approval.

17-522

Non-Income Producing Properties. — The term normal expenditures with respect to non-income producing properties includes the classes of expenditures specified for other income producing properties in MGR 17-521.2, above, except that such expenditures will be limited to the amount of property funds taken into custody with the property. If there are no funds under control in connection with such property, or if such funds have been exhausted, CAH's will arrange with the local German government for the payment of those expenses necessary to prevent deterioration of the property. The local German government will keep a record of such expenditures paid on account of each non-income producing property. The accumulated expenditures constitute a lien against the property until such property is either returned to its rightful owner or otherwise disposed of, in which case the liability will be liquidated.

17-523

Extraordinary Expenditures Prohibited. — Under no circumstances will LCAH's permit custodians, managers, and operating agents to incur extraordinary or unusual expenditures such as capital improvements, purchase of assets such as land, buildings, equipment or machinery without specific approval of the LPCC in the case of United Nations and Neutrals properties and of the LCAH in the case of German properties.

17-524

Negotiations of Loans Permitted. — LCAH's may authorize custodians, managers, and operating agents to negotiate loans through the local financial institutions for the payment of authorized expenditures. These loans will be chargeable solely against the property or income thereof. CAH's include a statement of explanation and justification on the Report of Property Transactions (MG/PC/3) whenever such loans are negotiated. Prior permission must be obtained in writing from the LPCC in case of United Nations and Neutrals property.

17-525

Unauthorized Use of Funds. — Custodians will not be permitted to expend the funds of one property on other properties, unless both properties in question are owned by the same person. The term "same person" in the sense of this provision means the same "natural" or "juridical person", such as an individual, corporate entity, etc., and does not authorize, for example, the expenditure of funds belonging to one subdivision or agency of the Reich on property belonging to an unrelated subdivision or agency of the Reich.

17-526

Loans to Individuals, Firms or Public Authorities. — Under no circumstances will property funds be used as a source for advancing loans to individuals, firms, or public authorities, unless the property is operating in the capacity of a financial institution.

PART 6 PROPERTY RECORDS, COURT AND LEGAL FORMS SECTION A GERMAN PROPERTY RECORDS

17-600

General. — LPCC's and LCAH's will familiarize themselves with the documents and records discussed below, for they furnish the primary source of information concerning property in Germany. A knowledge of where these documents may be and what they contain will facilitate the work of LPCC's and LCAH's and enable them to answer detailed inquiries on any property in their areas.

17-601

Grundbuch. —

17-601.1

Contents and Location. — The Grundbuch (Land Register) will usually be found at the Amtsgericht or in the town hall or in custody of the Bezirksnotar. This record is a register of title, and contains descriptions of all properties in the area, the various interests held therein, and other essential data, arranged according to location of property.

17-601.2

Grundakten. — Entries in the Grundbuch are made from papers called Grundakten which are prepared by the Amtsrichter or the Bezirksnotar and filed with the Grundbuch. When these papers are prepared, the purchaser either retains a certified copy of the original deed or receives a certified abstract of the title or the right.

17-602

Personen-Register. — There is also a Personen-Register which is a cross index of the Grundbuch arranged according to the name of the owner. This record contains the owner's address, references to any mortgages against the property, rights of way and easements, and the page number of the Grundbuch entry. The Personen-Register will ordinarily be found at the Grundbuchamt in the Amtsgericht.

17-603

Notar. — In all cases where a Notar drafted a deed or any paper affecting title to real estate, he has retained a copy of the Grundakten. It will be possible to draw conclusions on title from the files of the local Notar in many cases where the Grundbuch and Grundakten are missing or have been destroyed. The Notar also drafted contracts and instruments conveying interests in personality and commercial property.

17-604

Handelsregister. — The Handelsregister (Trade Register) will usually be found at the Amtsgericht in an office separate from the Grundbuch. This record is an official register on commercial transactions, primarily containing articles of incorporation and formation data on partnerships, associations, and other combinations for trade and industry. It also contains references to the appointment of administrators for enemy-owned undertakings.

Handelskammer. — The Handelskammer (local chambers of industry and commerce) which enjoy an official status in Germany, often have information concerning documents affecting title to commercial and industrial properties.

17-606

Reichskommissar für die Behandlung feindlichen Vermögens. —

17-606.1

Administration of Certain Enemy Property. — Many properties belonging to Allied governments and nationals thereof were placed under the supervision of the Reichskommissar für die Behandlung feindlichen Vermögens (The Reichs Commissar for handling Enemy Property). The office of the Reichskommissar was concerned primarily with enemy realty, industrial enterprises, patents and copyrights, ships and shipping companies.

17-606.2

Recorded in Oberlandesgericht. — Such property was recorded in the Reichskommissar's office (located in the Reich Ministry of Justice in Berlin) and also in the files of the Oberlandesgericht having jurisdiction over the property.

17-606.3

Administrators. — Such property was administered by Verwalter (special administrators) whose duties included the preparation of inventories, investigation of bank accounts, and the maintenance of books. The Verwalter also submitted periodical reports, financial statements and Annual Final Reports to the Reichskommissar and the Oberlandesgericht.

17-606.4

Jurisdiction of Oberlandesgericht. — The Oberlandesgericht having jurisdiction over the property appointed the Verwalter, fixed their fees, defined their powers and dismissed them when so required. The Oberlandesgericht also rendered judgements in cases instituted for the confiscation of religious and charitable property.

17-606.5

Use of Prepared Lists. — Property Control Offices have received prepared lists of all property known to have been under the German Alien Property Custodian. It is assumed that these lists comprise the majority of property of this type. However, in case any additional property of this type is uncovered at lower levels, Property Control will immediately take the property into custody as authorized by MG Law No. 52.

17-607

Administration of Enemy Property by Abwesenheitspfleger. — Movables belonging to Allied governments and nationals thereof, and other Allied property not requiring constant direction and supervision, e. g., minority interests in business enterprises and realty of low value, were often placed under the administration of Abwesenheitspfleger appointed by the Abteilung für Vormundschaftsgerichtsbarkeit over the property. Such property was recorded in the files of the appropriate Amtsgericht. The Landgericht and Oberlandesgericht also have jurisdiction in guardianship matters.

SECTION B COURTS

17-612

Amtsgericht. — The Amtsgericht is the lowest court of records. The Abteilung für Vormundschaftsachen, a section of this court, has limited jurisdiction over the administration of movables and realty of low value belonging to absentee owners. The Amtsgericht is also the depository for the Grundbuch and the Handelsregister.

17-613

Landgericht. — The Landgericht is the intermediate court between the Amtsgericht and the Oberlandesgericht. It is a court of original jurisdiction and also a court of appeals for the Amtsgericht. It may exercise the functions of the Oberlandesgericht in those Regierungsbezirke where the latter court does not sit.

17-614

Oberlandesgericht. —

17-614.1

Jurisdiction of Enemy Property. — The Oberlandesgericht is the highest court of original jurisdiction in the Länder. The Abteilung für Vormundschaftsgerichtsbarkeit, a section of this court, exercises extensive jurisdiction over the administration of property belonging to enemy countries and nationals thereof. It could appoint Verwalter and Treuhänder (Trustees), fix their salaries, revoke appointments, define the powers of administration and issue other pertinent orders. The Oberlandesgericht is the depository for records filed in connection with enemy properties placed under control of the Reichskommissar.

17-615

Authority to Use German Courts. — LPCC's will not submit themselves to the jurisdiction of the German courts in any capacity other than as witnesses except upon written approval of the CPCB.

17-616

Spruchkammer. — The law for Liberation from National Socialism and Militarism provides for the establishment of tribunals which shall decide the classification of the responsible persons and the sanctions to be imposed. Trial tribunals have been established in urban and rural districts.

17-616.1

Berufungskammer. — Berufungskammer (Appellate tribunals) exist for the review of decisions.

17-616.2

Ankläger. — An Ankläger (Public Prosecutor) is assigned to each of the tribunals.

SECTION C SUGGESTED USE OF LEGAL FORMS

17-620

General. — The legal forms set forth in OMGUS AG letter 010.6 (FD), 25 Feb 47, subject, "Property Control Accounting and Auditing Procedures, and Legal Forms" are provided as guides for the preparation of agreements entered into by LPCC's and LCAH's, who will remember that these forms are illustrative only and that the legal personnel should be consulted in case of doubt as to the insertion of proper provisions.

17-621

Appointment of Enemy Property Custodian. — (MG/PC/L/1).

17-621.1

LCAH May Reserve Matters for his Decision. — The custodian should be given reasonably wide latitude in the performance of his duties. Yet LCAH's may deem it advisable to limit the exercise of certain powers incidental to the operation and custody of properties. In this case, LCAH's may insert provisions in the contract reserving the particular matters for his decision.

17-621.2

Contractual Powers Circumscribed by MG Regulations. — LCAH's will observe that they can not confer powers on the custodians by contract which have in fact been withheld from the LCAH's by these Regulations or by orders of the LPCC. For instance, MGR 17-520 through MGR 17-524 forbid extraordinary expenditures and authorize LCAH's to permit custodians to make normal expenditures. Consequently, paragraph C 1 of the legal form will be inserted in every contract made with custodians.

17-621.3

Fees of Custodians. — LCAH's will determine compensation for services rendered by custodians in accordance with instructions set forth in MGR 17-510. In the contract, compensation may be expressed in terms of a lump sum payable monthly or in terms of a sum measured by a percentage of the monthly cash receipts, care being taken that each property is charged directly for its custodian's fees. LCAH's may find the first method of expressing compensation more suitable for contracts relating to custodians of business enterprise. Paragraph D of the legal forms incorporates both methods of stating compensation and LCAH's will disregard the inapplicable portion of the paragraph.

17-621.4

Disposition of Contract Copies. — Copies of the agreement with the custodian will be furnished to the LPCC, LCAH, CAH and the custodian. Custodians will be directed to file copies of said agreement with the Grundbuch, Handelsregister or other depository specified by German law (see MGR 17-600 to MGR 17-607).

17-622

Lease of Realty (MG/PC/L/2).

17-622.1

Special Provisions Based on Custom May be Inserted. — It is contemplated that special provisions based on local customs will be required for leases of real property. These provisions may be inserted in contracts for the lease of realty by the LCAH.

17-622.2

Repairs by Lessee. — If extensive repairs are required, it will be necessary to provide some compensation for the lessee in case of termination of the lease prior to its expiration.

Generally, the allocation of the cost of repairs over the term of the lease will provide a fair measure of the damage suffered by the lessee in such an event (see pars. C 4 and D 1 of the legal form).

17-622.3

Taxes and Insurances. — LCAH's may omit or modify the tax and insurance provisions of paragraphs C 2 and C 3 of the legal form. However, LCAH's will observe that tax and insurance must be paid out of income from the property and that the rental price will consequently be higher in those cases where the cost of taxes and insurance is born by the lessor.

17-622.4

Disposition of Lease Copies. — Copies of the lease will be delivered to the LCAH, LPCC and CAH, and the parties to the lease. Copies thereof will be deposited for file in customary depositories specified by German law (see MGR 17-600 to MGR 17-607).

17-623

Hire of Goods (MG/PC/L/3). — The instructions set forth in MGR 17-522 through MGR 17-523 are pertinent to contracts for hire of personal property under control. Where the property would not be replaceable if damaged, it may be necessary to require a deposit by the lessee in order to guarantee the payment of damages to the lessor in case of accident or loss.

PROPERTY CONTROL

PART 7

PROPERTY CONTROL ACCOUNTING AND AUDITING PROCEDURES, AND LEGAL FORMS

17-700

Decentralization of Accounting Functions. — Property Control accounting functions are decentralized to, and are the responsibility of, the LCAH of Bavaria, Bremen, Hesse, and Württemberg/Baden. These agencies will maintain complete accounting systems with full information on all properties under their control. Detailed instructions relating to the various accounting processes, including submission of reports, are set forth in letter, OMGUS AG 010.8 (FD), subject: "Property Control Accounting and Auditing

Procedures, and Legal Forms", dated 25 Feb. 1947. Property Control accounting for OMG-Berlin Sector, will remain the responsibility of the CPCB.

17-701

Decentralization of Auditing Functions. — The auditing function, both in relation to individual properties and to organizational procedures, is decentralized to, and is the responsibility of LPCC's and LCAH's of Bavaria, Bremen, Hesse, and Württemberg/Baden, and the Property Control Chief, OMG-Berlin Sector. The minimum general audit program is prescribed in letter, OMGUS AG 010.6 (FD), subject: "Property Control Accounting and Auditing Procedures, and Legal Forms", dated 25 Feb. 1947.

ANNEX VII

MILITARY GOVERNMENT LAW NO. 5

Dissolution of the Nazi Party

(Excerpt)

This Law dissolves the Nazi Party and provides as follows:

- "5. All funds, property, equipment, accounts, and records of any organization mentioned in this Law shall be preserved intact and shall be delivered or transferred as required by Military Government. Pending delivery or transfer, all property, accounts and records shall be subject to inspection. Officers and others in charge thereof and administrative officials will remain at their posts until otherwise directed, and will be responsible to the Military Government for taking all steps to preserve intact and undamaged all such funds, property, equipment, accounts, and records, and for complying with the orders of Military Government regarding blocking and control of property."

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PROPERTY CONTROL

ANNEX VIII

MILITARY GOVERNMENT -- GERMANY UNITED STATES AREA OF CONTROL

LAW NO. 19

DISPOSING OF PROPERTIES IN THE UNITED STATES ZONE OF
OCCUPATION AND THE UNITED STATES SECTOR OF BERLIN
HAVING BELONGED TO THE FORMER GERMAN REICH AND TO THE FORMER GERMAN
STATES, LAENDER, OR PROVINCES (INCLUDING THE STATE OF PRUSSIA)

Whereas it is desired to clarify title to property located in the United States Zone and the United States Sector of Berlin which, on 8 May 1945, belonged to the German Reich or to any of the German states, Laender, or provinces (including the state of Prussia); and

Whereas it is deemed expedient to provide for the disposition of such property;

IT IS HEREBY ORDERED AS FOLLOWS:

ARTICLE I

1. All property in the United States Zone of Germany and, subject to the provisions contained in Article XIV, paragraph 18 hereof, all property in the United States Sector of Berlin, which on 8 May 1945 was owned directly or indirectly by the German Reich or any of the German states, Laender, or provinces (including the state of Prussia), the disposition of which has not heretofore been authorized, or provided for pursuant to Military Government legislation, is hereby seized. All rights, interest, and title in and to such property are vested in the Military Government for Germany (US) and are herewith disposed of as provided by this law.

ARTICLE II

2. The Minister President (in Bremen the President of the Senate; in Berlin the Oberbuergermeister), or such other official as may be designated by him, is hereby designated and authorized to effect necessary transfers of title pursuant to the provisions of Article IV, paragraphs 4 and 5; Article V, paragraphs 7 and 8; Article VI, paragraph 10; and Article VII, paragraph 11.

ARTICLE III

3. The use of property by the Occupation Forces shall not be deemed to prevent the transfer of title according to the provisions of this law, but such use shall continue until the property is released by the Occupation Forces.

ARTICLE IV

4. Subject to the provisions contained in Article VII, paragraph 11 hereof, Reich property seized under Article I hereof which consisted of

a. Buildings, together with all fixtures and furnishings, the normal principal use of which was the housing of offices of the Reich Government;

b. Property devoted to the uses of the customs, public health, and weather services; lighthouses and other navigational aids; and fisheries;

c. Property devoted to the uses of the Reichsbahn, the Reichsautobahn, the Reich Waterways, and the Reichspost (except as provided in paragraph 5 below); and

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PROPERTY CONTROL

d. Property devoted to the use of the War Pensions System (Kriegsversorgungswesen) and other mutual benefit or insurance systems,

is hereby transferred to the Land in which such property is situated (or, if situated in the United States Sector of Berlin, to the City of Berlin), as trustee, in trust for such German state above the Laender as may be recognized by the U.S., U.K., and French Military Governments. During the period of trusteeship, presently existing arrangements regarding the possession, management, and use of the properties described in this paragraph will be continued, unless other arrangements therefore are made as may be deemed suitable by Military Government or the appropriate German authorities. Such of the property described in this paragraph as may be designated by the legislative body of such German state as may be recognized shall, subject to the approval of Military Government, be finally transferred to that German state. As to property not so designated and property the transfer of which is not so approved within one year after the creation of the German state herein referred to, the trust shall terminate at that time, and the Land in which it is located (or, if located in the United States Sector of Berlin, the City of Berlin), shall have full ownership thereof.

5. Property of the former Reichspost used directly or indirectly for the purpose of radio broadcasting on 31 December 1948 is hereby transferred to the public service broadcasting institution organized in each Land pursuant to German legislation. In the event that no public service broadcasting institution, eligible to receive such property, is in existence on the effective date of this law in a given Land, such property is transferred to the Land as trustee, in trust for a public service broadcasting institution eligible to receive such property. The Land shall transfer the property to such institution immediately upon its coming into being.

ARTICLE V

6. Title to property seized under Article I hereof which was owned on 8 May 1945 by any of the then-existing German states, Laender, or provinces (including the state of Prussia), part or all of whose territories are now embraced within the specified area, as defined in Article XII and hereinafter referred to as the "specified area", is hereby vested, except as provided in Article VI, paragraph 10 hereof, in the Land in which such property is located on the effective date of this law (or in the City of Berlin, if located in the United States Sector of Berlin).

7. Where a corporate entity, the majority interest in which was owned by the German Reich or any of the former German states, Laender, or Provinces (including the state of Prussia), has property located within, but has its seat outside the specified area, such property shall be transferred to the Land in the specified area in which it is located, as trustee, in trust for a new corporation. Such corporation shall be formed one year after the effective date of this law, or at such earlier date as may be approved by Military Government, by the Land within the specified area having the greatest participation in the old corporate entity. The stock or other indicia of ownership of the new corporation shall represent the value of all the assets of the former corporation located within the specified area and shall be distributed among the Laender thereof in the same proportion that their stock in the old corporation related to the entire stock of the old corporation outstanding in the specified area.

8. If no Land in the specified area is found to have had a participation in the old corporation, the trust shall terminate one year after the effective date of this law, and the Land in which the assets are located (or if located in the United States Sector of Berlin, the City of Berlin) shall have full ownership thereof.

9. Privately-owned minority interests in the old corporations shall be dealt with in accordance with a plan to be approved by Military Government.

ARTICLE VI

10. Title to property located on the effective date of this law in the United States Zone of Germany and in the United States Sector of Berlin, consisting of works of art, cultural objects, statues, and appurtenances of museums, having belonged on 8 May

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PROPERTY CONTROL

1945 to the German Reich or to any of the German states, Laender, or provinces (including the State of Prussia), whose territories lie principally outside the specified area, is hereby vested in the Land where such property is located (or in the City of Berlin, if located in the United States Sector of Berlin) as trustee, in trust for the German state, referred to in Article IV, paragraph 4 hereof, and shall, after the formation of such German state and upon the order of Military Government, be transferred by the agents designated in Article II hereof to such state. Until the time of such transfer, present arrangements will be continued or such other arrangements will be made for the care and custody of such property as may be deemed suitable by the appropriate authorities.

ARTICLE VII

11. Notwithstanding the fact that it may have been used by the Reich for any of the purposes enumerated in Article IV, paragraph 4 hereof, property seized under Article I hereof which, subsequent to 30 January 1933, was acquired by the German Reich or by any of the former German states, and was taken from a trade union, cooperative, political party, or any other democratic organization, is hereby transferred to the Land in which said property is located (or to the City of Berlin, if located in the United States Sector of Berlin), as trustee, in trust for the former owner; or, where no existing organization is completely identical with the organization which was the former owner of the property, for a new organization or organizations approved by Military Government, whose aims are similar to those of the former owner. The agents designated in Article II hereof shall as soon as possible transfer title to such property to the former owner or successor organization. The transfer of property to such organizations shall be made in the manner provided for the transfer of properties of Nazi organizations by Control Council Directive No. 50, Military Government Law, No. 58, and laws and instructions in implementation thereof.

ARTICLE VIII

12. Title to property seized under Article I hereof, the disposition of which is not otherwise provided for in this law, is hereby vested in the Land in which such property is located (or in the City of Berlin, if located in the United States Sector of Berlin).

ARTICLE IX

13. Recipients of property pursuant to this law shall be liable for and may be called upon to pay charges against the property existing at the date of transfer, up to an amount equal to the value of such property.

14. The following categories of property are exempted from the operation of this law:

a. All cultural and historic archives and public, private, or ecclesiastical documents or records relating to activities, rights, claims, treaties, constitutions, etc., of families, corporations, communities, churches, or states, which, subsequent to 1 September 1939, were removed from an area of Germany other than the specified area;

b. Reichsmark credit balances with financial institutions in the specified area, including Reichsmark credit balances which originated solely from the deposits of old currency banknotes subject to surrender in accordance with Military Government Law No. 61 (Currency Law), extinguished by the operation of Military Government Law No. 63 (Conversion Law);

c. Properties owned directly or indirectly by the German Reich and used for or in connection with the production, distribution, and exhibition of motion picture films;

d. Properties of the iron, steel, and coal industries subject to Military Government Law No. 75.

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ARTICLE XI

15. For the purpose of this law, property shall be deemed to be located at the place of its normal situs.

ARTICLE XII

16. The "specified area", as referred to in this law, shall mean the Laender Bavaria, Bremen, Hesse, Wuerttemberg-Baden, and the United States Sector of Berlin. Upon the enactment by the respective Military Governments of legislation which is determined by the Military Government for Germany (US) to be similar to this law, the specified area shall include Niedersachsen, Nordrhein/Westphalen, Schleswig-Holstein, Hansestadt Hamburg, Baden, Wuerttemberg/Hohenzollern, Rheinland/Pfalz, and the British and French Sectors of Berlin, in all cases as constituted on 1 September 1948.

ARTICLE XIII

17. Unless otherwise ordered by Military Government, the Minister President of each Land (in Bremen the President of the Senate; in Berlin the Oberbuergermeister) or any appropriate officials designated by him shall issue the legal and administrative regulations necessary for the implementation of this law.

ARTICLE XIV

18. Property having the nature of public utilities, which is located in the United States Sector of Berlin and which is part of an economic unit situated and operating in more than one Sector of Berlin, including, but not limited to properties of the Reichsbahn, the Reichsautobahn, and the Reichspost, shall not be affected by this law except pursuant to orders or regulations under this law which may be issued by the Office of Military Government for Germany (US).

ARTICLE XV

19. Any legislation inconsistent with any of the provisions of this law is hereby repealed.

20. The German state, referred to in Article IV, paragraph 4, hereof, may set aside any disposition of property to the Laender, pursuant to this law, when such disposition is contrary to that which may be provided for in the basic law of said German state, when such basic law becomes effective.

ARTICLE XVI

21. This law becomes effective in Bavaria, Wuerttemberg-Baden, Hesse, Bremen, and the United States Sector of Berlin on 20 April 1949.

BY ORDER OF THE MILITARY GOVERNMENT

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PROPERTY CONTROL

ANNEX IX

MILITARY GOVERNMENT — GERMANY UNITED STATES ZONE

LAW NO. 52 Amended (2)

Blocking and Control of Property

ARTICLE I

CATEGORIES OF PROPERTY

1. All property within the occupied territory owned or controlled, directly or indirectly, in whole or in part, by any of the following is hereby declared to be subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government: —

- (a) The German Reich, or any of the Lander, Gau, or Provinces, or other similar political subdivisions or any agency or instrumentality thereof, including all utilities, undertakings, public corporations or monopolies under the control of any of the above;
- (b) Government, nationals or residents of nations, other than Germany which have been at war with any of the United Nations at any time since September 1, 1939, and governments, nationals or residents of territories which have been occupied since that date by such nations or by Germany;
- (c) The NSDAP, all offices, departments, agencies and organizations forming part of, attached to, or controlled by it; their officials and such of their leading members or supporters as may be specified by Military Government;
- (d) All persons while held under detention or any other type of custody by Military Government;¹
- (e) All organizations, clubs or other associations prohibited or dissolved by Military Government;
- (f) Absentee owners of non-German Nationality, including United Nations and neutral governments, and Germans outside of Germany;²
- (g) All other persons specified by Military Government by inclusion in lists or otherwise.

¹ SHAEF amendment of 3 April 1946 changed original text. Original text read:

"(b) Governments, nationals or residents of other nations, including those of territories occupied by them, at war with any of the United Nations at any time since 1 September 1939;

(c) The NSDAP, all offices, departments, agencies and organizations forming part of it, attached to, or controlled by its officials and such of its leading members or supporters specified by Military Government.

(d) All persons held under detention or any type of custody by Military Government.

² USFET amendment above became effective 14 July 1946. This is the second amendment for this sub-paragraph. The first, by SHAEF, 3 April 1946, changed the wording of subpar (f) from "Absent owners, including United Nations governments and nationals, thereof;" to "Owners absent from the Supreme Commander's Area of Control and Nationals and Governments of United Nations and Neutral Nations". Ed.

2. Property which has been the subject of transfer under duress, wrongful acts of confiscation, dispossession or spoliation, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise, is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government.³

ARTICLE II

PROHIBITED TRANSACTIONS

3. Except as hereinafter provided, or when licensed or otherwise authorized or directed by Military Government, no person shall import acquire or receive, deal in, sell, lease, transfer, export, hypothecate or otherwise dispose of, destroy or surrender possession, custody or control of any property: —

- (a) Enumerated in Article I hereof;
- (b) Owned or controlled by any Kreis, municipality, or other similar political subdivision;
- (c) Owned or controlled by any institution dedicated to public worship, charity, education, the arts and sciences;
- (d) Which is a work of art or cultural material of value or importance, regardless of the ownership or control thereof.

ARTICLE III

RESPONSIBILITIES FOR PROPERTY

4. All custodians, curators, officials, or other persons having possession, custody or control of property enumerated in Articles I or II hereof are required: —

- (a) (I) To hold the same, subject to the directions of the Military Government and, pending such direction, not to transfer, deliver or otherwise dispose of the same;
- (II) To preserve, maintain and safeguard, and not to cause or permit any action which will impair the value or utility of such property;
- (III) To maintain accurate records and accounts with respect thereto⁴ and the income thereof.
- (b) When and as directed by Military Government: —
- (I) To file reports furnishing such data as may be required with respect to such property and all receipts and expenditures received or made in connection therewith;
- (II) To transfer and deliver custody, possession or control of such property and all books, records and accounts relating thereto; and
- (III) To account for the property and all income and products thereof.

5. No person shall do, cause or permit to be done any act of commission or omission which results in damage to or concealment of any of the properties covered by this law.

³ Amended effective 14 July 1946. Original text read "2. Property which has been subject of duress, wrongful acts of confiscation, dispossession or spoliation from territories outside GERMANY, whether pursuant to legislation or by procedures purporting to follow forms of law or otherwise is hereby declared to be equally subject to seizure of possession or title, direction, management, supervision or otherwise being taken into control by Military Government." Ed.

⁴ Original text read "thereof". Ed.

⁵ Added by SHAEF amendment of 3 April 1946. Ed.

ARTICLE IV

OPERATION OF BUSINESS ENTERPRISES AND GOVERNMENT PROPERTY

6. Unless otherwise directed and subject to such further limitation as may be imposed by Military Government:

- (a) Any business enterprise subject to control under this law may engage in all transactions ordinarily incidental to the normal conduct of its business activities within occupied Germany provided that such business enterprise shall not engage in any transaction which, directly or indirectly, substantially diminishes or imperils the assets of such enterprise or otherwise prejudicially affects its financial position and provided further that this does not authorize any transaction which is prohibited for any reason other than the issuance of this law;
- (b) Property described in Article I, 1 (a) shall be used for its normal purpose except as otherwise prohibited by Military Government.⁵

ARTICLE V

VOID TRANSACTIONS

7. Any prohibited transaction effected without a duly issued license or authorization from Military Government, and any transfer, contract or other arrangements made, whether before or after the effective date of this law, with the intent to defeat or evade this law or the powers or objects of Military Government or the restitution of any property to its rightful owner, is null and void.

ARTICLE VI

CONFLICTING LAWS

8. In case of any inconsistency between this law and any order made under it and any German law the former prevail. All German laws, decrees and regulations providing for the seizure, confiscation or forced purchase of property enumerated in Articles I or II hereof, are hereby suspended.

ARTICLE VII

DEFINITIONS

9. For the purpose of this law:

- (a) "Person" shall mean any natural person, collective person and any juristic person under public or private law, and any government including all political subdivisions, public corporations, agencies and instrumentalities thereof;
- (b) "Business Enterprise" shall mean any person as above defined engaged in commercial, business or public welfare activities.
- (c) "Property" shall mean all movable and immovable property and all rights and interests in or claims to such property whether present or future, and shall include, but shall not be limited to, land and buildings, money, stocks/shares, patent rights or licenses thereunder, or other evidences of ownership, and bonds, bank balances, claims, obligations and other evidences of indebtedness, and works of art and other cultural materials;
- (d) A "National" of a state or government shall mean a subject, citizen or partnership and any corporation or other juristic person existing under the laws of, or having a principal office in the territory of, such state or government;

⁵ SHAEF amendment of 3 April 1946 added this clause. Ed.

- (e) "GERMANY" shall mean the area constituting "Das Deutsche Reich" as it existed on 31 December 1937.⁶

ARTICLE VIII

PENALTIES

10. Any person violating any of the provisions of this law shall, upon conviction by a Military Government Court, be liable to any lawful punishment, including death, the Court may determine.

ARTICLE IX

EFFECTIVE DATE

11. This law shall become effective upon the date of its first promulgation.

BY ORDER OF MILITARY GOVERNMENT.

⁶ SHAEF amendment of 3 April 1946 changed original text. Original text read:

"7. Any prohibited transaction without a duly issued license or authorization from Military Government and any transfer, contract arrangement made, whether before or after the date of this law, with the intent to defeat or evade the powers or objects of Military Government or the restitution of any property to its rightful owner, is null and void.

8. In case of any inconsistency between this law and any order made under it and any German law the former prevail. All laws, decrees and regulations providing for the seizure, confiscation or forced purchase of property enumerated in Articles I and II, otherwise than by the Military Government are hereby suspended.

9. For the purposes of this Law, the following terms are defined as follows:

(a) "Person" shall mean and include any natural person, collective persons and any entity under public or private law having legal capacity to acquire, occupy, control or dispose of property or interests therein;

(b) "Business Enterprise" shall mean any individual, partnership, association, corporation or other organization engaged in commercial or other business or public welfare activities;

(c) "Property" shall mean and include all movable and immovable property and all legal, equitable or economic rights and interests in or claims to such property whether present or future, and shall include, but shall not be limited to, land and buildings, money, stocks, shares, patent rights or licenses thereunder, or other evidences of ownership and bonds, bank balances, claims, obligations and other evidences of indebtedness, and works of art and other cultural objects;

(d) A "National" of a state or government shall mean and include a subject or citizen and any partnership, corporation, or other juridical person existing under the laws of, or having a principal office in the territory of, such state or government;

(e) "GERMANY" shall mean the area constituting "Das Deutsche Reich" as on 31 December 1937." Ed.

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MILITARY GOVERNMENT — GERMANY SUPREME COMMANDER'S AREA OF CONTROL

GENERAL ORDER NO. 1

(Pursuant to Military Government Law No. 52;
Blocking and Control of Property)

I. It is hereby ordered that, commencing from the date of announcement of dissolution, abrogation or suspension of any organization or business enterprise by Military Government, the provisions of Article IV of Military Government Law No. 52 shall no longer apply to any such organization or business enterprise or its property.

II. All property of all persons described below is hereby specified by Military Government in accordance with Article I, paragraph 1, sub-paragraphs (c) and (g) of Military Government Law No. 52, to be subject to all of the provisions of Military Government Law No. 52, and may not be dealt with except as licensed or otherwise authorized or directed by Military Government or Military Government Law No. 52:—

1. All persons who have been members at any time of any of the General Staffs including those of the Oberkommando des Heeres, the Oberkommando der Kriegsmarine or the Oberkommando der Luftwaffe or the General Staff Corps.
2. Ministers, State Secretaries and Ministerial Directors in all Reich Ministries.
3. All officials at any time since 30th January, 1933, other than clerks, of the Reichskanzlei, Präsidentskanzlei or Pressechef der Reichsregierung.
4. Minister, Chief Adjutant, State Secretary, Ministerial Directors, heads and deputy heads of departments, sub-departments and agencies of the Ministry of Armament and War Production, including the heads of all Hauptabteilungen and Ringe.
5. All Reich Commissioners, General Commissioners and Inspectors General.
6. Land Ministers, State Secretaries and Ministerial Directors at Land levels.
7. Provincial Presidents, Reich Governors and their department heads.
8. Regierungspräsidenten.
9. Landräte.
10. Oberbürgermeister.
11. Reich Youth Leaders (Reichsjugendführer) at any time.
12. The President, members of the managing board (Reichsbankdirektorium), members of the Beirat, and all Reichsbankdirektoren of the head office (Berlin) of the Reichsbank (Deutsche Reichsbank); all members of the local advisory boards (Bezirksbeiräte) of the regional Reichsbank Branches (Hauptstellen, Stellen).
13. The boards of directors and Vorstände of the:
 - (a) Gold Discount Bank (Deutsche Golddiskontbank), Conversion Office for German Debts (Konversionskasse für Deutsche Auslandsschulden), Reichskreditkasse and German Clearing Office (Deutsche Verrechnungskasse).
 - (b) German Central Savings Bank (Deutsche Girozentrale — Deutsche Kommunalbank).
 - (c) Bank der Deutschen Luftfahrt, Heeres-Rüstungs A. G., Rüstungskontor G.m.b.H., Deutsche Bau- und Boden-Bank, Deutsche Industriebank, Deutsche Gesellschaft für öffentliche Arbeiten ("Oeffa"), Deutsche Siedlungsbank, Deutsche Verkehrs-Kredit-Bank.
 - (d) The following Berlin commercial banks: The "Big Six" — Deutsche Bank, Dresdner Bank, Commerzbank, Reichskredit-Gesellschaft A. G., Berliner Handels-Gesellschaft, and Bank der Deutschen Arbeit A. G. Also, all members of the local advisory boards of such banks.
 - (e) Preussische Staatsbank (Seehandlung), Berlin. Also the Chairman and Vice-Chairman of the board of directors and the entire Vorstand of all other State commercial banks.
14. Reich Commissioners, Vorstand, and the boards of directors of the:—
 - (a) German Central Credit Co-operative Bank (Deutsche Zentralgenossenschaftsbank).
 - (b) Deutsche Rentenbank-Kreditanstalt and Deutsche Rentenbank.
15. All partners of the following private banks:

Merck, Finck und Co., Munich and Berlin.
Brinckmann, Wirtz und Co., Hamburg.
Pferdmenges und Co., Cologne.
J. H. Stefa, Cologne.
Delbrück, von der Heydt und Co., Cologne.
Delbrück, Schickler und Co., Berlin.
Burkhardt und Co., Essen.
Eichhorn und Co., Breslau and Berlin.
Münchmeyer und Co., Hamburg.
16. All Geschäftsführer of Hardy & Co., G.m.b.H., Berlin.
17. Chairmen and Vice-Chairmen of the Boards of Directors and all members of the Vorstände of all commercial banks not otherwise specified herein, having total assets in excess of RM 50,000,000.
18. Heads of Reichsausschüsse zum Schutze des Deutschen Blutes, Reichsstelle für Umstellung, Reichsversicherungsamt, Reichsarchiv.
19. All officials or officers of the following Reich agencies:—
 - (a) Office of the Plenipotentiary for the Four-Year Plan (Beauftragter für den Vierjahresplan) and all subdivisions thereof.
 - (b) Supreme Command of the Armed Forces (Oberkommando der Wehrmacht, i. e., OKW).
 - (c) Reich Ministry for Public Enlightenment and Propaganda (Reichsministerium für Volksaufklärung und Propaganda) and national, regional and subsidiary offices.
 - (d) Reich Air Ministry (Reichsluftfahrtministerium).
 - (e) Reich Ministry for Occupied Eastern Territories (Reichsministerium für die besetzten Ostgebiete).

- (f) Reich Ministry for Ecclesiastical Affairs (Reichsministerium für Kirchliche Angelegenheiten).
- (g) European Office for Labor Supply.
- (h) Reich Office for Spatial Planning (Reichsstelle für Raumordnung).
- (i) Reich Office for Resettlement (Reichsstelle für Umsiedlung).
- (j) Academy of German Law (Akademie für das deutsche Recht).
- (k) German Academy (Deutsche Akademie, Munich).
- (l) Reich Chambers for Doctors, Veterinaries, Dentists and Apothecaries (Reichsarzte-, Tierärzte-, Zahnärzte- und Apothekerkammern).
- (m) Office of Forestry (Amt für Forstwirtschaft).
- (n) Reich Patent Office (Reichspatentamt).
20. All members of every German Reichstag since 1st January 1933.
21. Reich Labor Trustees (Reichstreuhänder der Arbeit).
22. The following officials of the Reich Food Estate: All Bauernführer — from and including the Kreis level up; Chairmen of the Central Market Associations (Hauptvereinigungen), Regional Market Associations (Wirtschaftsverbände) and County or local marketing associations (Unterverbände), Presidents of Regional Food Offices (Landesernährungsämter) and County Food Offices (Ernährungsämter); and their deputies.
23. All university rectors and curators appointed since 30th January, 1933, including heads of all institutions of university rank (Hochschulen).
24. Members of the Supreme Court (Reichsgericht); People's Court (Volksgericht); Reichsverwaltungsgericht; Reichskriegsgericht; Reichserbhofgericht; Reichsarbeitsgericht; Reichsrechnungshof; Oberstes Fideikommissgericht; Oberpräsidium.
25. Members of the Courts of Appeal (Oberlandesgerichte).
26. Chief Public Prosecutors (Oberreichsanwälte, Generalstaatsanwälte und Oberstaatsanwälte).
27. All members of the SS; all officers and noncommissioned officers of the Waffen SS and SA from Unterscharführer up.
28. Hitler Youth officials and officers (male and female) from Stammführer or Mädelringführer up.
29. Officials and officers of the NSDAP, down to Ortsgruppenleiter; directors, officials and officers of any organization, institution, department, agency, office or other entity forming part of, attached to, affiliated with, or in any way controlled or supervised by any organization listed in Military Government Law No. 5, and of any of the following NSDAP agencies:
 - (a) Reich Committee for People's Health Service (Reichsausschuss für Volksgesundheitsdienst).
 - (b) Reich Sport Office (Reichssportamt).
 - (c) Reich Genealogical Office (Reichsappellamt).
 - (d) State Academy for Race and Health (Staatsschule für Rassen und Gesundheitspflege, Dresden).
 - (e) All publishing houses and printing works owned or controlled by the NSDAP, such as Phoenix G.m.b.H., the Eher Verlag, and all enterprises owned or controlled by any of them.
 - (f) Association of German Organizations Abroad (Verband Deutscher Vereine im Ausland, i. e., VDVA).
 - (g) Fraternity U.S.A. (Kameradschaft U.S.A.).
 - (h) Ibero-American Institute (Ibero-Amerikanisches Institut).
 - (i) World Service (Weltdienst).
 - (j) Main Office for the Security of the Reich (Reichssicherheitshauptamt).
 - (k) Main Office for Budgets and Buildings (Hauptamt für Haushalt und Bauten).
 - (l) Main Office for Administration and Economy (Hauptamt für Verwaltung und Wirtschaft).
 - (m) The Hanns Kerrl Community Camp (Gemeinschaftslager Hanns Kerrl).
 - (n) German Fichte Association (Deutscher Fichte Bund).
 - (o) Sturmabteilungen (SA), and all formations, subdivisions and affiliated organizations thereof, including the SA-Wehrmannschaft or pre-military training centers.
 - (p) NS-Kraftfahrerkorps, i. e., NSKK, or Motor Corps.
 - (q) NS-Fliegerkorps, i. e., NSFK, or Flying Corps.
 - (r) Hitler Youth (Hitler-Jugend, i. e., HJ) and subsidiary organizations.
 - (s) German Christian Movement (Deutsche Christen Bewegung).
 - (t) Neo-Pagan Movement (Deutsche Glaubensbewegung).
 - (u) Technische Nothilfe, i. e., TN.
 - (v) Volkdeutsche Bewegung.
30. Every person who, at any time since 1st April, 1933, has served the Deutsche Luftwaffe, A.G., outside Germany and every official or officer who has served it within Germany at any time since 1st April, 1933.
31. Police Presidents and Directors and all Police officers above the rank of lieutenant colonel.
32. All members of Security Police (Sicherheitspolizei), of Secret Police (Gestapo), Security Service (Sicherheitsdienst), and Frontier Police (Grenzpolizei).
33. German Labor Front officials of the rank of Arbeitsführer and higher (including Kraft durch Freude) at Reich and Gau levels.
34. Civilian officials and military officials of the rank of captain or equivalent or above, in German administration of occupied countries, and all persons who have acted as representatives of the NSDAP in occupied countries not otherwise covered herein.
35. Leaders, Chairmen, Presidents and their Deputies of National Economic Chambers, Reichsgruppen, National Transportation Groups (Reichsverkehrsgruppen), Wirtschaftsgruppen, Gau Economic Chambers and affiliated Economic Chambers.
36. Responsible officers of the Organisation Todt.

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37. All Wehrwirtschaftsführer.
38. President and all other officials of the Werberat der Deutschen Wirtschaft and its component organizations.
39. All directors and high officials of the Reichsrundfunk G.m.b.H. and the Deutsches Nachrichtenbüro.
40. All managers, directors and officials of the Deutsche Umsiedlungs Treuhand G.m.b.H.
41. Presidents, Vice-Presidents and Secretaries of the Reichskulturkammer, of each subordinate Kammer and heads of sections of each subordinate Kammer.
42. Editors, assistant editors, directors and all other executives of all newspapers, magazines and other news-disseminating agencies owned or controlled by the NSDAP or any organization, department, agency, institution, office or other entity forming part of, attached to, affiliated with, or controlled by the NSDAP.
43. All Amtsleiter and higher officials of the Reichspropagandaleitung.
44. Persons other than those listed above who have accepted the Nazi honors of Blutorden, Ehrensold, Ehrendolch.
45. All persons removed from office or position, public or private, or arrested and held by the Military Forces or Military Government and all persons suspended from office or position, public or private, by Military Government for the time such persons are suspended, regardless of whether or not they are listed above.

III. 1. The specification of the foregoing persons shall be deemed to include all persons who are now holding or who at any time since 31st December, 1937, have held such positions and the nominees of any of them.

2. The specification of the foregoing agencies, organizations and other entities shall be deemed to include their successors, substitutes or nominees.

IV. As used herein with respect to any stock company (Aktiengesellschaft, A.G.), any registered association (eingetragener Verein, e.V.), and any limited liability company (Gesellschaft mit beschränkter Haftung, G.m.b.H.), the term "official" shall mean any individual, whether an officer or not, who is empowered, either alone or with others, to bind or sign for or on behalf of any of the foregoing (e.g., Aufsichtsratsmitglieder, Geschäftsführer, Vorstandsmitglieder or Prokuristen); with respect to Government departments or agencies the term "officials" shall mean all heads of departments, subdepartments, sections or other similar organizational units.

V. All custodians, curators, officials or other persons having possession, custody or control of any of the property of the foregoing are required to comply with Military Government Law No. 52.

BY ORDER OF MILITARY GOVERNMENT.

MILITARY GOVERNMENT — GERMANY UNITED STATES ZONE

GENERAL ORDER NO. 1

Pursuant to Military Government Law No. 52

Blocking and Control of Property

SUPPLEMENT NO. 1

1. Pursuant to paragraph 1 (g) of Military Government Law No. 52, the Deutsche Kriegsversicherungsgemeinschaft is hereby specified as subject to the provisions of said law.

2. The operations of the Deutsche Kriegsversicherungsgemeinschaft are hereby declared suspended by Military Government and by virtue of Article I, General Order No. 1, the provisions of Article IV, paragraph 6, Military Government Law No. 52 are no longer applicable except as hereinafter provided.

3. The disposal of property or interests in property owned or controlled by the Deutsche Kriegsversicherungsgemeinschaft, whether to satisfy, in whole or in part, an informal claim, a judgment of a court of law, or otherwise, except for the purpose of defraying costs of administration to include damage and claim investigations and such other expenses as are necessary to maintain and complete accurate records of assets, liabilities, and other relative data, shall be deemed substantially to diminish or imperil the assets of said company within the meaning of paragraph 6 (a), of Military Government Law No. 52.

4. All suits against the Deutsche Kriegsversicherungsgemeinschaft in German courts based on insurance or reinsurance claims and brought for the purpose of securing or enforcing a judgment shall be abated.

BY ORDER OF MILITARY GOVERNMENT

MILITARY GOVERNMENT — GERMANY UNITED STATES ZONE

GENERAL ORDER NO. 1

(Pursuant to Military Government Law No. 52;

Blocking and Control of Property)

SUPPLEMENT NO. 2

Amended (1)*

1. Pursuant to Article I, paragraph 1 (g) of Military Government Law No. 52, the following persons are declared to constitute a category of "persons specified by Military Government by inclusion in lists or otherwise," and are therefore subject to the provisions of said law:

a) All persons who have been charged as Major Offenders or Offenders (activists, militarists, and profiteers) by the Public Prosecutor;

- b) All persons who, by notification of the Ministry for Political Liberation, and/or its authorized representatives or agencies, fall within Class I or II categories in the list appended to the law;
- c) All persons subject to blocking in accordance with Article 61 of the Law for Liberation from National Socialism and Militarism;
- d) All persons whose property is ordered blocked pursuant to Article 40 of the Law for Liberation from National Socialism and Militarism, and
- e) All persons any part of whose property is* blocked by decision of the Tribunal.

BY ORDER OF MILITARY GOVERNMENT

* Words "ordered confiscated or" were dropped from subpar. e) (where there is an asterisk) of Supplement No. 2 by MG Amendment No. 1, implemented by OMGUS AG letter .010.6 (FD) 9 April 1947.

MILITARY GOVERNMENT — GERMANY UNITED STATES ZONE

General Order No. 2

(Pursuant to Military Government Law No. 52;
Blocking and Control of Property)

I. G. FARBEINDUSTRIE A. G.

Whereas, it is the main objective of the United Nations to prevent Germany from ever again disrupting the peace of the world;

Whereas, I. G. FARBEINDUSTRIE A. G. played a prominent part in building up and maintaining the German war machine;

Whereas, through its world-wide cartel system and practices, I. G. FARBEINDUSTRIE A. G., as a deliberate part of Germany's bid for world conquest, hampered the growth of industry and commerce of other nations and weakened their power to defend themselves;

Whereas, the war-making power represented by the industries owned or controlled by I. G. FARBEINDUSTRIE A. G. constitutes a major threat to the peace and security of the post-war world so long as such industries remain within the control of Germany;

Whereas, it is essential to the objectives of the United Nations to take over the direction and control of I. G. FARBEINDUSTRIE A. G. and to seize possession of its property in order to bring about its destruction and the war-making potential which it represents; and

Whereas, it is intended that the property seized will be placed at the disposition of the Control Council (Germany), when such action is desired by the Control Council;

IT IS HEREBY ORDERED:

1. All the property within the United States Zone in Germany owned or controlled, directly or indirectly, by I. G. FARBEINDUSTRIE A. G., a corporation organized and existing under and by virtue of the laws of Germany with seat and head office at Frankfurt a/Main, is hereby specified under paragraph 1 (g) of Military Government Law No. 52 to be subject to seizure of possession, direction, and control by Military Government.

2. The direction and control of I. G. FARBEINDUSTRIE A. G. and the possession of all its property in the United States Zone are hereby seized by the Military Governor, United States Zone.

3. Pending the assumption of control of such property by the Control Council, or an agency thereof, all the powers of the Military Governor, United States Zone, with respect to the property seized pursuant hereto and with respect to the direction and control of the corporation are hereby delegated to the Deputy Military Governor, United States Zone. Redlegation of any or all such powers is hereby authorized. In the exercise of such powers the Deputy Military Governor, United States Zone, or any person acting by or under his authority with respect to the property affected hereby shall not be subject to German law.

4. In the exercise of such powers the Deputy Military Governor, or any person acting by or under his authority with respect to such property, shall be guided by the general objectives stated in the preamble hereto and by the following specific objectives, and will take such measures as he deems appropriate to accomplish them:

a) The making available to devastated non-enemy countries of Europe and to the United Nations, in accordance with such programs of relief, restitution and reparations as may be decided upon, of any of the property seized under this order and, in particular, of laboratories, plants and equipment which produce chemicals, synthetic petroleum and rubber, magnesium and aluminum and other nonferrous metals, iron and steel, machine tools, and heavy machinery;

b) Destruction of all property seized under this order and not transferred under the provisions of paragraph a) above if adapted to the production of arms, ammunition, poison gas, explosives, and other implements of war, or any parts, components or ingredients designed for incorporation in the foregoing, and not of a type generally used in industries permitted to operate within Germany;

c) Dispersion of the ownership and control of such of the plants and equipment seized under this order as have not been transferred or destroyed pursuant to paragraphs a) and b) above.

5. a) The entire management of I. G. FARBEINDUSTRIE A. G., including but not limited to the supervising board (Aufsichtsrat), the board of directors (Vorstand), and directors (Direktoren) and all other persons, whether office-holders or not, who are empowered, either alone or with others, to bind or sign for or on behalf of I. G. FARBEINDUSTRIE A. G. are forthwith removed and discharged and deprived of all authority to act with respect to the corporation or its property;

b) The rights of shareholders in respect of selection of

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management or control of I. G. FARBENINDUSTRIE A. G. are suspended.

6. Article IV of Military Government Law No. 52 shall not be applicable to any property or enterprise affected by this General Order.

7. This General Order shall become effective on 5 July 1945.

BY ORDER OF MILITARY GOVERNMENT

MILITARY GOVERNMENT — GERMANY UNITED STATES ZONE

General Order No. 3

(Pursuant to Military Government Law No. 52;
Blocking and Control of Property.)

Bank der Deutschen Arbeit A. G.

Whereas, the Bank der Deutschen Arbeit A. G., a banking corporation organized and existing under and by virtue of the laws of Germany with its head office at Berlin, is completely owned by an official organization of the Nazi party, the Deutsche Arbeits-Front, which has been ordered dissolved;

Whereas, the Bank der Deutschen Arbeit A. G. has been used by the Nazi party to consummate a large majority of its more obnoxious financial transactions within Germany and in countries temporarily under German armed domination;

Whereas, the Bank der Deutschen Arbeit A. G. served as the reservoir to hold Nazi party members' fees and other semi-compulsory contributions and was used to finance the economic enterprises of the Deutsche Arbeits-Front;

Whereas, the directors and management officials of the Bank der Deutschen Arbeit A. G. have been Nazi political favorites and Nazi party officials and persons who are now prohibited from engaging in the business of banking;

Whereas, it is one objective of the United Nations that Nazi party organizations of every description be eliminated;

IT IS HEREBY ORDERED:

1. Commencing from the effective date hereof the provisions of Article IV of Military Government Law No. 52 shall not apply

to the Bank der Deutschen Arbeit A. G., (hereinafter called the Bank) nor to any of its property.

2. All the property within the United States Zone in Germany owned or controlled, directly or indirectly, in whole or in part by the Bank is hereby specified under Paragraph 1 (g) of Military Government Law No. 52 to be subject to seizure of possession, direction, and control by Military Government.

3. The direction and control of all branches, offices and agencies of the Bank and the possession of all its property and assets in the United States Zone are hereby seized by the Military Government.

4. These branches, offices and agencies will close for all purposes at 0001 hours, 1 September 1945.

5. All directors, management officials and all other persons, whether office holders or not, who are empowered, either alone or with others, to bind or sign for or on behalf of the Bank in the United States Zone are deprived of all authority to act with respect to the Bank or its property except as specifically authorized in Paragraph 6.

6. The branch and agency officials and employees of the Bank who may be selected by the Military Government authorities to remain temporarily in the employ of the Bank are charged with observance of all provisions of Military Government laws, especially Military Government Law No. 52 and General Order No. 1 issued thereunder, and in addition the following responsibilities and duties:

- They will transact no new business of any character on behalf of the bank.
- They will make no payments in liquidation of deposit or other liabilities of the bank.
- They will accept payments in liquidation of existing obligations from the debtors of the bank.
- They will take all prudent and necessary measures to safeguard existing assets and records.
- They will make no deliveries of securities or other assets held in safekeeping for the account of customers without first obtaining the authorization of the Military Government.
- They will permit no access to safe deposit boxes or articles left for safekeeping until further instructions are issued.
- This General Order shall become effective at 0001 hours 1 September 1945.

BY ORDER OF MILITARY GOVERNMENT

ANNEX X

MILITARY GOVERNMENT — GERMANY SUPREME COMMANDER'S AREA OF CONTROL

LAW NO. 53

Foreign Exchange Control

ARTICLE I

PROHIBITED TRANSACTIONS

1. Except as duly licensed by or on instructions of Military Government, any transaction involving or with respect to any of the following is prohibited:

- Any foreign exchange assets owned or controlled directly or indirectly, in whole or in part, by any person in GERMANY;
- Any property located in GERMANY owned or controlled directly or indirectly, in whole or in part, by any person outside GERMANY.

2. Any transaction with respect to or involving any of the following is also prohibited, except as duly licensed by or on instructions of Military Government:

- Property wherever situated if the transaction is between or involves any person in GERMANY and any person outside GERMANY;
- Any obligation of payment or performance, whether matured or not, due or owing to any person outside GERMANY by any person in GERMANY;
- The importing or otherwise bringing into GERMANY of any foreign exchange assets, German currency, or securities issued by persons in GERMANY and expressed or payable in German currency;
- The exporting, remitting, or other removal of any property from GERMANY.

3. All existing licenses and exemptions issued by any German Authority authorizing any of the aforesaid transactions are cancelled.

ARTICLE II

DECLARATION OF PROPERTY AND OBLIGATIONS

- Within thirty (30) days of the effective date of this law, unless otherwise ordered, any person owning or controlling directly or indirectly, in whole or in part, any foreign exchange asset, or owing any obligation of payment or performance, whether matured or not, to a person outside GERMANY, shall file with the nearest branch of the Reichsbank, or other institution, designated by Military Government, a written declaration of such asset or obligation in such form and manner as will be prescribed by Military Government.
- When and as directed by Military Government, any person affected by this law shall file such other reports as may be required.

ARTICLE III

DELIVERY OF PROPERTY

5. Within fifteen (15) days of the effective date of this law, all of the following classes of property shall be delivered, against receipt therefor, by the owner, holder or other person in possession, custody or control thereof, to the nearest branch of the Reichsbank, or as otherwise directed:

- Currency other than German currency;
- Checks, drafts, bills of exchange and other instruments of payments drawn on or issued by persons outside GERMANY;
- Securities and other evidences of ownership or indebtedness issued by:
 - Persons outside GERMANY; or
 - Persons in GERMANY if expressed in a currency other than German currency;
- Gold or silver coin; gold, silver or platinum bullion or alloys thereof in bullion form.

6. Any person owning or controlling directly or indirectly in whole or in part, any other type of foreign exchange asset, shall, when ordered by Military Government, deliver, against receipt, the possession, custody or control of such asset to the nearest branch of the Reichsbank, or as otherwise directed.

7. Any property referred to in this Article which hereafter comes into the possession, ownership or control of any person subject to this law, shall, within 3 days thereof, be delivered by such person in the same manner as provided in this Article.

ARTICLE IV

APPLICATIONS FOR LICENSES

8. Applications for licenses to engage in transactions prohibited by this law, or any request in relation to the operation of this law, shall be submitted in accordance with such regulations as may be issued at a future date by Military Government.

ARTICLE V

VOID TRANSACTIONS

9. Any transfer effected in violation of this law and any agreement or arrangement made, whether before or after the effective date of this law, with intent to defeat or evade this law or the objects of Military Government, is null and void.

ARTICLE VI

CONFLICTING LAW

10. In case of any inconsistency between this law and any order made under it and any German law, the former prevails.

ARTICLE VII

DEFINITIONS

11. For the purpose of this law:

- "Person" shall mean any natural person, collective persons and any juristic person under public or private law

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- and any government including all political sub-divisions, public corporations, agencies and instrumentalities thereof;
- (b) "Transaction" shall mean acquiring, importing, borrowing or receiving with or without consideration; remitting, selling, leasing, transferring, removing, exporting, hypothecating, pledging or otherwise disposing of; paying, repaying, lending, guaranteeing or otherwise dealing in any property mentioned in this law;
- (c) "Property" shall mean all movable and immovable property and all rights and interests in or claims to such property whether present or future, and shall include, but shall not be limited to, land and buildings, money, stocks, shares, patent rights or licenses thereunder, or other evidences of ownership, and bonds, bank balances, claims, obligations and other evidences of indebtedness, and works of art and other cultural materials;
- (d) "Foreign Exchange Asset" shall be deemed to include
- (I) Any property located outside GERMANY;
 - (II) Currency other than German currency; bank balances outside GERMANY; and checks, drafts, bills of exchange and other instruments of payment drawn on or issued by persons outside GERMANY;
 - (III) Claims and any evidence thereof owned or held by:
 - a. Any person in GERMANY against a person outside GERMANY whether expressed in German or other currencies;
 - b. Any person in GERMANY against any other person in GERMANY if expressed in a currency other than German currency;
 - c. Any person outside GERMANY against another person outside GERMANY in which claim a person in GERMANY has any interest;
 - (IV) Any securities and other evidences of ownership or indebtedness issued by persons outside GERMANY and securities issued by persons in GERMANY if

- expressed or payable in a currency other than German currency;
- (V) Gold or silver coin, or gold, silver or platinum bullion or alloys thereof in bullion form, no matter where located;
- (VI) Such other property as is determined by Military Government to be a foreign exchange asset;
- (e) A juristic person may, for the purpose of the enforcement of the provisions of this law, be deemed to be in any one or more of the following countries:
- (a) that country by, or under whose laws it is created,
 - (b) that or those in which it has a principal place of business, or
 - (c) that or those in which it carries on business.
- (f) Property shall be deemed to be "owned" or "controlled" by any person if such property is held in his name or for his account or benefit, or owned to him or to his nominee or agent, or if such person has a right or obligation to purchase, receive or acquire such property;
- (g) The term "GERMANY" shall mean the area constituting "Das Deutsche Reich" as it existed on 31 December 1937.

ARTICLE VIII PENALTIES

12. Any person violating the provisions of this law shall upon conviction by Military Government Court be liable to any lawful punishment other than death as the court may determine.

ARTICLE IX EFFECTIVE DATE

13. This law shall become effective upon the date of its first promulgation.

BY ORDER OF MILITARY GOVERNMENT

ANNEX XI

MILITARY GOVERNMENT -- GERMANY UNITED STATES ZONE

LAW NO. 54

Use of Wehrmacht Property

To deprive the German Armed Forces of the use of military installations and training facilities within the United States Zone, including air fields, maneuver areas, camps, and ranges;

To increase agricultural production;

To facilitate the accommodation and settlement of Germans and others;

To decentralize the structure of the German economy; it is hereby ordered as follows:

1. The right to possession and use of all property in the United States Zone (excluding the Bremen Sub-District), title to which is held by any of the following is hereby granted to the Land (State) in which such property is situated:

- (a) The Supreme Command of the German Armed Forces, the German Army, the German Navy, the German Air Forces, and any component thereof;
- (b) The SA (Sturmabteilungen), the NSKK (NS-Kraftfahrkorps), the NSFK (NS-Fliegerkorps), the SS (Schutzstaffeln), including the SD (Sicherheitsdienst);
- (c) The German Reich, any of its departments or agencies, for or in the interest of any of the organizations listed under a and b;
- (d) Any officer of any of the organizations listed under a and b above, in his official capacity;
- (e) Any other organization or person, for or in the interest of any of the organizations or persons listed under a, b, c or d.

2. The head of the Government of each Land shall forthwith take possession of all of such property as is suitable for agricultural purposes or required for accommodation or settlement of Germans or others and shall be responsible for immediate action to ensure that all of such property of which possession is taken is put to effective uses compatible with the purposes of this Law. Military Government will direct the use or assume custody or control of property not suitable for agricultural purposes or required for such accommodation or settlement.

3. To carry out the responsibilities placed on him by paragraph 2 the head of the Government of each Land may:

- (a) Establish appropriate agencies approved by Military Government, or designate existing agencies so approved and delegate to such agencies any of the authority herein conferred on him;
- (b) Terminate leases or other arrangements affecting use or possession of such property, in addition to those which are terminated by paragraph 6 below, on such terms as he may determine to be appropriate, in any case where the continuation thereof would be incompatible with the purpose of this Law;
- (c) Make, renew or ratify leases of such property for periods not to exceed five (5) years, the prior approval of Military

Government being required for action involving leases in excess of eighteen (18) months;

(d) Remove military installations or property and hold the same as Military Government may direct, the prior approval of Military Government being required for the removal of installations of a permanent character;

(e) Make or authorize alterations or improvements, the prior approval of Military Government being required for those of a capital nature;

(f) Take any other action with respect to the use or operation of such property, consistent herewith, appropriate or necessary to the accomplishment of the purpose hereof.

4. The head of the Government of each Land shall furnish to the Military Government Detachment having supervision of the Land

- (a) A list of the separate parcels of real property subject to paragraph 1 above, whether or not suitable for agricultural purposes or required for accommodation or settlement of Germans or others. Such list shall contain a general description of the property and show the structures thereon and the usages to which it has been or may be put;
- (b) Reports of action taken hereunder, as called for by such detachment.

5. This Law shall not prevent the application of any German law designed to increase agricultural production or to provide land settlements unless inconsistent with this Law or suspended by Military Government. But no mortgage, sale, exchange or option to purchase authorized by German law shall be effective with respect to such property without the prior specific approval or direction of Military Government.

6. All leases and other arrangements affecting use or possession of property subject to this Law in favor of any one or more of those described in paragraph 1 above are hereby terminated.

7. The income derived from the use of such property shall be held in a segregated bank account or accounts in the name of the particular Land. The balance of such income, over and above necessary expenditures in connection with the operations hereby authorized, shall be held or applied as approved or directed by Military Government.

8. Any of such property which is now or hereafter used, occupied or taken into custody by the United States Forces or by Military Government will not, during the period of such use, occupation, or custody, be dealt with under paragraphs 2 and 3 above but will be subject to direction, management, and supervision of Military Government.

9. For the purpose of this Law,

- (a) "Property" includes all land, buildings and appurtenances, and all tangible personal property, whether movable or immovable.
- (b) "Organization" includes governmental agencies (including all mentioned in subparagraphs 1a and b above), corporations, associations, trusts, partnerships and the like.
- (c) "Land" includes each of the Länder in the United States Zone as now or hereafter constituted or established by authority of Military Government.

10. This Law shall become effective on 27 August 1945.

BY ORDER OF MILITARY GOVERNMENT

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ANNEX XII

MILITARY GOVERNMENT — GERMANY

LAW NO. 58*

Implementing Control Council Directive No. 50

WHEREAS Control Council Law No. 2, "Providing for the Termination and Liquidation of the Nazi Organizations", provides in Article II that all real estate, equipment, funds, accounts, records and other property of the organizations abolished by Control Council Law No. 2 are confiscated; that confiscation shall be carried out by Military Commands; and that general directives concerning the distribution of the confiscated property are given by the Control Council; and

WHEREAS such general directives concerning the distribution of certain of the property confiscated by said Law now have been issued by the Control Council in Directive No. 50, "Disposition of Property Having Belonged to Organizations Listed in Control Council Proclamation No. 2 and Control Council Law No. 2";

IT IS HEREBY ORDERED AS FOLLOWS:

ARTICLE I

1. For the purpose of implementing Control Council Directive No. 50 the head of the German agency exercising property control custody in each Land (Land Civilian Agency Head), or such other official as may be designated by the Ministerpräsident of a Land, or in Bremen by the President of the Senate, or in the United States Sector of Berlin by the Sector Commander, is hereby designated and authorized to execute the transfer of title to properties subject to disposition pursuant to Control Council Directive No. 50.

2. Transfer of title to properties under Article II of Control Council Directive No. 50 shall be evidenced in each case by a Certificate of Transfer executed by the Land Civilian Agency Head or other designated official. It shall, as a minimum, contain the name of the Nazi, military or para-military organization which formerly held title, the name of the receiving organization and location of its main office, a description of the property transferred in accordance with its entry in the Grundbuch and a statement that the transfer of the property to the receiving organization is subject to all the terms and conditions of this Law and of Control Council Directive No. 50.

3. The transfer of title to properties transferred pursuant to Article III of the Directive shall be evidenced by a Certificate of Transfer containing a master list of such properties prepared and executed by the Land Civilian Agency Head or other designated official. The transfer of title to properties transferred pursuant to Article V of the Directive shall be evidenced by a similar certificate. The master list contained in each certificate shall give, as a minimum, a description of each property in accordance with its entry in the Grundbuch, the name of the Nazi, military, or para-military organization which formerly held title and a statement that the transfer of the property is subject to all the terms and

* See also RMG 13-237 (a). Ed.

conditions of this Law and of Control Council Directive No. 50. Additional properties may be added to the lists by amendment. Duly notarized extracts from the certificates relating in each case to the particular property conveyed may be filed of record in lieu of the entire document.

4. A Certificate of Transfer, duly executed pursuant to paragraph 2 or 3 above, or a duly notarized extract therefrom, shall suffice to authorize the making of the necessary entries in the Grundbücher or other public registries. The fact that title to property is subject to this Law shall be entered in the Grundbuch.

5. The transfer of title will be perfected upon entry of the transaction in the Grundbuch.

ARTICLE II

6. Military Government may, at any time, set aside or modify any transactions with respect to property transferred pursuant to the authority given by Article I, paragraph 1 of this Law, or any subsequent disposition made with respect to such property by the transferee, or any successor of the transferee, which he deems inconsistent with the purpose and spirit of Control Council Directive No. 50.

7. Any transfer set aside by Military Government pursuant to paragraph 6 above shall be null and void ab initio. In such a case provisions for the protection of purchasers in good faith shall be inapplicable.

ARTICLE III

8. All outstanding leases of properties transferred pursuant to this Law, made or entered into by authority of Military Government, shall remain valid according to the terms thereof unless and until terminated by or under the authority of Military Government.

ARTICLE IV

9. Military Government may issue such regulations pursuant to this Law as it may deem necessary or desirable to effectively carry out the implementation of Control Council Directive No. 50.

ARTICLE V

10. Any German legislation inconsistent with any of the provisions of this Law is hereby amended in accordance with the provisions hereof.

ARTICLE VI

11. Military Government will determine the date when Article II of this Law shall cease to be effective.

12. This Law is effective as of 29 June 1947.

BY ORDER OF MILITARY GOVERNMENT.

Instructions Implementing Military Government

Law No. 58 and Control Council Directive No. 50

(Amended 1)

1. The head of the German agency exercising property control custody at Land level (Land Civilian Agency Head), or such other German official approved by the Military Governor, as may be designated by the Ministerpräsident, or in Bremen by the President of the Senate, for the purpose, is designated and authorized on behalf of the Military Governor to transfer properties subject to disposition pursuant to Article II of the Directive. He shall determine that the receiving organization is authorized, that its activities are approved by the Military Governor and in addition, in the case of successor organizations, that the aims of the new organization are similar to those of the former organization. This does not require the reference of individual cases to Military Government. Where an official, other than the Land Civilian Agency Head, is designated he shall select the receiving organization and make the determinations herein above required. The Land Civilian Agency Head will perform such administrative details as his custody of the properties and property files and his knowledge of property control makes desirable but apart from the execution of instruments of conveyance or such other acts as may be required of such designated official by law for the conveyance of a good and valid title the Land Civilian Agency Head and such designated official may divide between them the performance of the acts required to accomplish the transfer as they see fit. The Land Civilian Agency Head, or other designated official, shall broadly publicize the availability of the property for transfer pursuant to Article II of the Directive including publication in the Land Government gazette and shall specifically invite organizations desiring the return of properties formerly held by them and organizations claiming properties as successor organizations to submit written applications therefor. Upon approval of such an application the Land Civilian Agency Head shall release the property to the transferee and shall make a report thereof to the Land Property Control Chief. The report shall be made by delivery to the Land Property Control Chief of the requested number of copies of the Certificate of Transfer as provided for in paragraph 2 hereof. In cases where two or more applications for the same property are submitted or where an application affects property presently being used by Military Government licensees, such as newspaper publishers licensed by Information Control the Land Civilian Agency Head, or other designated official, will, prior to release of the property by the Land Civilian Agency Head submit a report containing his findings and decision to the Land Property Control Chief who will submit it to, and obtain the concurrence of, the Office or Division of Military Government at Land level which has the greatest interest in the activities of the applicant or applicants or of the licensee. Any application for properties belonging to organizations falling under Section I of Control Council Proclamation No. 2 but not under Control Council Law No. 2, shall, without any other action

1 Amendment No. 1 added new para at end of para 1. Ed.

being taken thereon, be forwarded through the Land Property Control Chief to the Chief, Property Control Branch, Finance Division, OMGUS.

2. The transfer of property under Article II of the Directive shall be evidenced by a Certificate of Transfer which shall be prepared and executed by the Land Civilian Agency Head, or other designated official, and be delivered by him to the receiving organization. The Certificate of Transfer shall, among other things contain the name of the Nazi, military, or para-military organization which formerly held title, the name of the receiving organization and the location of its main office, a description of the property transferred in accordance with its entry in the Grundbuch and a statement that the release of the property to the receiving organization is subject to all terms and conditions of the Directive and of Military Government Law No. 58. The Certificate of Transfer shall otherwise meet the requirements of law as to form and content necessary to constitute evidence of conveyance which will support appropriate entries of ownership in the Grundbücher and other public registries. It shall be executed with sufficient duplicate originals to meet the legitimate requirements of the receiving organization, the German authorities and Military Government.

3. Where the right to return of property subject to disposal under Article II of the Directive is not claimed before November 1, 1947, the Land Civilian Agency Head, or other designated official, shall request the former owner to state in writing whether or not it intends to exercise its right and shall set a reasonable time for reply. If the organization states that it will exercise its right it shall be allowed such further time as may be set by the Land Civilian Agency Head, or other designated official, considering all the facts and circumstances of the case, for the preparation and submission of its application. If the organization states that it does not exercise its right or, if no reply has been received within the time set, such property shall be transferred, as herein provided, to a successor organization making application. If transfer of the property is not applied for by the former owner or by a successor organization such property shall be transferred to the Land in which it is located pursuant to the provisions of Article V of the Directive.

4. The Land Civilian Agency Head is designated and authorized on behalf of the Military Governor to transfer properties subject to disposition pursuant to Article III of the Directive. Property formerly devoted to relief, charitable, religious or humanitarian purposes shall be transferred to the Länder where located for disposition or use according to the provisions of Article III of the Directive, of Military Government Law No. 58, and of such implementing instructions as may be applicable. The transfer of title to properties transferred pursuant to Article III of the Directive shall be evidenced by a Certificate of Transfer containing a master list of all such properties in the Land giving the

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name of the Nazi, military, or para-military organization which held title to the property, the name of the organization which formerly held title, a description of the property in accordance with its entry in the Grundbuch and a statement that the release of the property to the Land is subject to all conditions of the Directive and of Military Government Law No. 56. The Certificate of Transfer or a duly notarized extract therefrom shall otherwise meet the requirements of law as to form and content necessary to constitute evidence of conveyance which will support appropriate entries of ownership in the Grundbücher or other public registries. Additional properties may be added to the list by amendment. The Land Civilian Agency Head will deliver the requested number of copies of the certificate to the Land Property Control Chief. Properties falling under Section I of Control Council Proclamation No. 2 but not under Control Council Law No. 2 shall not be included in the certificate. The Land Civilian Agency Head shall make a separate list of such properties and shall, without taking any other action thereon, forward such list through the Land Property Control Chief to the Chief, Property Control Branch, Finance Division, OMGUS.

5. Where property formerly devoted to relief, charitable, religious or humanitarian purposes is transferred by a Land pursuant to Article III of the Directive to an organization formerly holding title thereto or to a new organization no special approval of Military Government shall be required prior to the release of such property except where two or more applications for the same property are submitted or where an application affects property being used by Military Government licensees in which case the procedure followed will be the same that followed in similar cases under paragraph 1 hereof.

6. An organization receiving former properties under Article II or III of this Directive will be required upon receiving back its property to pay or assume liability for all debts and for any accretion in value of the property in accordance with the same principles as shall be established in the case of property subject to internal restitution to victims of Nazi persecution. Payments pursuant to this paragraph shall be made in accordance with subsequent instructions which shall be issued after the adoption of a restitution law. Successor organizations receiving properties under Article II or III of the Directive will have the same rights and liabilities as are provided for in the case of organizations reacquiring properties formerly belonging to them.

7. The Land Civilian Agency Head is designated and authorized on behalf of the Military Governor to transfer the title to property subject to disposition pursuant to paragraph 1 of Article V of the Directive. The Land Civilian Agency Head shall prepare and execute a Certificate of Transfer containing a master list of all such properties in the same manner as is provided for in paragraph 4 hereof in the case of properties formerly devoted to relief, charitable, religious or humanitarian purposes. The Certificate of Transfer or a duly notarized extract therefrom shall otherwise meet the requirements of law as to form and content necessary to constitute evidence of conveyance which will support appropriate entries of ownership in the Grundbücher or other public registries. Additional properties may be added to the certificate by amendment. The Land Civilian Agency Head will deliver the requested number of copies of the certificate to the Land Property Control Chief. Properties falling under Section I of Control Council Proclamation No. 2 but not under Control Council Law No. 2 shall not be included in the certificate. The Land Civilian Agency Head shall make a separate list of such properties and shall, without taking any other action thereon, forward such list through the Land Property Control Chief to the Chief, Property Control Branch, Finance Division, OMGUS.

8. Where title to properties transferred pursuant to the Directive devolves upon more than one Land and the properties have heretofore been operated as an economic unit the ownership of component parts by different Länder shall not prevent the use or disposition of such properties in such a manner as to continue the operation of the properties as an economic unit where it is in the interest of German economy that they be so operated and not contrary to Military Government Law.

9. The government of the Land shall sell property not held and used, or transferred to an administrative district or municipality within its jurisdiction pursuant to paragraph 2 of Article V of the Directive, and in so doing it shall, except where otherwise provided for by existing law, in addition to the requirements of the Directive, be governed by the following policies:

- a. Prices will not exceed the maximum established by existing German Price Control Laws.
- b. Sales shall be public offerings in the sense that they shall be widely publicized in advance and the offers of all persons or groups shall receive careful and equal consideration.

c. Sale, in each case, shall be made to that person or group who will in the opinion of the responsible German authorities make that use of the property which will result in the greatest benefit to the German economy and people as a whole.

d. The person or group awarded the sale shall be required to prove to the satisfaction of the responsible German authorities the legal acquisition of the funds which are to be used in the payment of the purchase price.

If the Land determines that an organization has aims and functions similar to those organizations referred to in Articles II and III of Control Council Directive No. 50; that it fulfills functions which are beneficial to a large group of the German population; and that such organization is in need of property for the establishment, rehabilitation or advancement of the organization the Land may, if it desires, transfer property to such organization without reference to provisions of paragraph 9 hereof, or of paragraph 3, Article V of Control Council Directive No. 50.

10. Properties falling under the provisions of Article VIII of the Directive shall be kept under control, administered, used, or disposed of in accordance with the laws, regulations, directives and instructions relating to these types of property. The property of victims of Nazi persecution shall be held pending enactment of a restitution law which shall provide for disposition of such property. No "G" category property will be transferred pursuant to the Directive or these instructions except upon the specific written direction of the Chief of the Property Control Branch, Finance Division, OMGUS. The Land Civilian Agency Head, or other designated official, shall maintain liaison with the Reparations and War Potential Section, Industry Branch, Economics Division at Land level in order to make certain that no property is transferred under the Directive or these instructions which is included in the lists maintained by said Reparations and War Potential Section of properties designated for demolition or reparation. This paragraph takes precedence over all other paragraphs of these instructions.

11. The branch and agency officials and employees in temporary employ of the Bank der Deutschen Arbeit by authority of General Order No. 3 pursuant to Military Government Law No. 52 shall not be required to quit the occupancy of the premises of the Bank or the use of the supplies and equipment thereof without prior express consent of the Finance Division of the Office of Military Government for Germany (US). If such officials and employees remain in occupancy of the Bank properties after ownership is transferred pursuant to the terms of the Directive they shall be liable for the fair rental of the properties thus occupied.

12. All German, Military Government and Control Council laws and regulations affecting property transferred by this Directive or the sale or acquisition thereof shall be applicable.

13. Property evacuated from the place of normal situs and gathered in central collection points or otherwise placed for safe-keeping outside of the Land or Province of origin shall remain under property control custody pending further instructions from the Chief, Property Control Branch, Finance Division, OMGUS. Property subject to this Directive which is of a movable nature, such as vans or barges, which is temporarily located in a Land or Province other than that in which such movable property is normally located shall likewise remain under property control custody pending further instructions from the Chief, Property Control Branch, Finance Division, OMGUS. Reports giving a general description, the present location, the place of origin and the estimated value of property described in this paragraph shall be forwarded to the Chief, Property Control Branch, Finance Division, OMGUS.

14. Title to personal property, other than that subject to the provisions of the preceding paragraph, located in or upon, or otherwise connected with real property or premises transferred under the terms of the Directive and Military Government Law No. 56, shall be transferred by delivery which shall be deemed to have taken place when said property or premises are made available to the transferee. Title to personal property not located in or upon, or otherwise connected with real property or premises shall likewise be transferred by delivery which shall be evidenced by a Certificate of Transfer which shall be prepared and executed by the Land Civilian Agency Head or other designated official. The Certificate of Transfer shall contain the same information as required in the case of such certificates prepared pursuant to paragraph 2, 4 or 7 hereof and shall conform to the requirements of law relating to the transfer of title to personal property.

15. The Chief of the Property Control Branch, Finance Division, OMGUS will issue such additional implementing instructions and give such explanations and clarifications of the Directive and implementing instructions as he may deem necessary or desirable.

PROPERTY CONTROL

ANNEX XIII

MILITARY GOVERNMENT -- GERMANY UNITED STATES AREA OF CONTROL

LAW NO. 59¹ (AMENDED 1)²

Restitution of Identifiable Property

PART I GENERAL PROVISIONS

ARTICLE 1

Basic Principles

1. It shall be the purpose of this Law to effect to the largest extent possible the speedy restitution of identifiable property (tangible and intangible property and aggregates of tangible and intangible property) to persons who were wrongfully deprived of such property within the period from 30 January 1933 to 8 May 1945 for reasons of race, religion, nationality, ideology or political opposition to National Socialism. For the purpose of this Law deprivation of property for reasons of nationality shall not include measures which under recognized rules of international law are usually permissible against property of nationals of enemy countries.

2. Property shall be restored to its former owner or to his successor in interest in accordance with the provisions of this Law even though the interests of other persons who had no knowledge of the wrongful taking must be subordinated. Provisions of law for the protection of purchasers in good faith, which would defeat restitution, shall be disregarded except where this Law provides otherwise.

PART II CONFISCATED PROPERTY

ARTICLE 2

Acts of Confiscation

1. Property shall be considered confiscated within the provisions of this Law if the person entitled thereto has been deprived of it, or has failed to obtain it despite a well founded legal expectancy of acquisition, as the result of:

- (a) A transaction contra bonos mores, threats or duress, or an unlawful taking or any other tort;
 - (b) Seizure due to a governmental act or by abuse of such act;
 - (c) Seizure as the result of measures taken by the NSDAP, its formations or affiliated organizations;
- provided the acts described in (a)-(c) were caused by or constituted measures of persecution for any of the reasons set forth in Article 1.

¹ The German text of this law shall be the official text and the provisions of par. 3 of Art. II of MG Law No. 4 shall not apply; (Law No. 22, Art. 94). Ed.

² This amendment extends the time for filing reports required by Art. 73 from 15 May 1946 until 15 August 1946. The amendment is effective 15 May 1946. Ed.

2. It shall not be permissible to plead that an act was not wrongful or contra bonos mores because it conformed with a prevailing ideology concerning discrimination against individuals on account of their race, religion, nationality, ideology or their political opposition to National Socialism.

3. Confiscation by a governmental act within the meaning of paragraph 1 (b) shall be deemed to include, among other acts, sequestration, confiscation, forfeiture by order or operation of law, and transfer by order of the State or by a trustee appointed by the State. The forfeiture by virtue of a judgment of a criminal court shall also be considered a confiscation by a governmental act, if such judgment has been vacated by order of an appropriate court or by operation of law.

4. A judgment or order of a court, or of an administrative agency, which, although based on general provisions of law, was handed down solely or primarily with the purpose of injuring the party affected by it for any of the reasons set forth in Article 1 shall be deemed a specific instance of the abuse of a governmental act. The abuse of a governmental act shall also include the procurement of a judgment or of measures of execution by exploiting the circumstance that the opponent was, actually or by law, prevented from protecting his interests by virtue of his race, religion, nationality, ideology or his political opposition to National Socialism. The Restitution Authorities (Restitution Agency, Restitution Chamber and Oberlandesgericht) shall disregard any such judgment or order of a court or administrative agency whether or not it may otherwise be appealed or reopened under existing law.

ARTICLE 3

Presumption of Confiscation

1. It shall be presumed in favor of any claimant that the following transactions entered into between 30 January 1933 and 8 May 1945 constitute acts of confiscation within the meaning of Article 2:

- (a) Any transfer or relinquishment of property made during a period of persecution by any person who was directly exposed to persecutory measures on any of the grounds set forth in Article 1;
- (b) Any transfer or relinquishment of property made by a person who belonged to a class of persons which on any of the grounds set forth in Article 1 was to be eliminated in its entirety from the cultural and economic life of Germany by measures taken by the State or the NSDAP.

2. In the absence of other factors proving an act of confiscation within the meaning of Article 2, the presumptions set forth in paragraph 1 may be rebutted by showing that the transferor was paid a fair purchase price. Such evidence by itself shall not, however, rebut the presumptions if the transferor was denied the free right of disposal of the purchase price on any of the grounds set forth in Article 1.

3. A fair purchase price within the meaning of this Article shall mean the amount of money which a willing buyer would pay and a willing seller would take, taking

into consideration, in the case of a commercial enterprise, the normal good will which such enterprise would have in the hands of a person not subject to persecutory measures referred to in Article 1.

ARTICLE 4

Power of Avoidance

1. Any transaction entered into by a person belonging to a class referred to in Paragraph 1 (b) of Article 3 within the period from 15 September 1935 (the date of the first Nuremberg laws) to 8 May 1945 may, because of the duress imposed on such class, be avoided by a claimant where such transaction involved the transfer or relinquishment of any property unless:

- (a) The transaction as such and with its essential terms would have taken place even in the absence of National Socialism, or
- (b) The transferee protected the property interests of the claimant (Article 7) or his predecessor in interest in an unusual manner and with substantial success, for example, by helping him in transferring his assets abroad or through similar assistance.

2. In determining under paragraph 1 (a) whether the transaction would have taken place even in the absence of National Socialism, the fact that

the transferor himself offered to sell the property to the transferee, or

the transferor received a fair purchase price (see Article 3, paragraph 3) the free right of disposal of which was not denied him on any of the grounds set forth in Article 1,

shall be considered by the Restitution Authority together with all other facts, but neither fact, either singly or in conjunction with the other, shall be sufficient to show that the transaction would have taken place even in the absence of National Socialism.

3. Similarly neither of these facts, either singly or in conjunction with the other, shall be sufficient to show that the claimant is estopped from exercising the power of avoidance by reason of his own previous conduct or that of his predecessor in interest.

4. The term "claim for restitution" as used in this Law shall be deemed to include all claims based on the right to exercise the power of avoidance. The exercise of the power of avoidance shall have the effect that the property transferred or relinquished pursuant to the voided transaction shall for the purposes of this Law be deemed to be confiscated property.

5. The filing of a claim for restitution shall, whether or not it is specifically stated, be deemed to be an exercise of the right of avoidance on behalf of the person entitled to exercise such right.

ARTICLE 5

Donations

Where a person persecuted for any of the reasons set forth in Article 1 has transferred property to another gratuitously within the period from 30 January 1933 to 8 May 1945, it shall be presumed that the transfer constituted a bailment or fiduciary relationship rather than a donation. This presumption shall not apply where the personal relations between the transferor and the recipient make it probable that the transfer constituted a donation based on moral considerations (Anstandsschenkung); no claims for restitution may be asserted in such cases.

ARTICLE 6

Bailment and Fiduciary Relationships

1. The provisions of Parts III to VII of this Law shall not apply to bailments and fiduciary agreements entered into in order to prevent damage to property threatened for any of the reasons set forth in Article 1, or to mitigate existing damage to property inflicted for such reasons.

2. The claimant (Article 7) may at any time terminate contracts and any other arrangements depicted in paragraph 1, such termination to be effective immediately, any contractual or statutory provisions to the contrary notwithstanding.

3. It shall not be an admissible defense for the bailee or fiduciary that the contracts and agreements described in paragraph 1 violated a statutory prohibition existing at the time of the transaction or enacted thereafter, or that a statutory or contractual form requirement had not been complied with, provided that this failure was attributable to the National Socialist regime.

PART III

GENERAL PROVISIONS ON RESTITUTION

ARTICLE 7

Person Entitled to Restitution (Hereinafter called Claimant)

The claim for restitution shall appertain to any person whose property was confiscated (hereinafter called Persecuted Person) or to any successor in interest.

ARTICLE 8

Successorship of Dissolved Associations

1. If a juridical person or unincorporated association was dissolved or forced to dissolve for any of the reasons set forth in Article 1, the claim for restitution which would have appertained to such juridical person and unincorporated association had it not been dissolved, may be enforced by a successor organization to be appointed by Military Government.

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2. The provisions of paragraph 1 shall not be applicable to the organizations referred to in Article 9.

ARTICLE 9

Rights of Individual Partners

If a partnership, company or corporation organized under the Commercial Law, was dissolved or forced to dissolve for any of the reasons set forth in Article 1, the claim for restitution may be asserted by any associate (partner, member or shareholder). The claim for restitution shall be deemed to have been filed on behalf of all associates who have the same cause of action. The claim may be withdrawn or compromised only with the approval of the appropriate Restitution Authority. Notice of the filing of the claim shall be given to all other known associates or their successors in interest and to a successor organization competent according to Article 10. Within the limits of its authority the successor organization may represent in the proceedings any associate whose address is unknown, in accordance with the provisions of Article 11.

ARTICLE 10

Successor Organization as Heir to Persecuted Persons

A successor organization to be appointed by Military Government, shall, instead of the State, be entitled to the entire estate of any persecuted person in the case provided for in Section 1936 of the Civil Code (Erscheit of estate of person dying without heirs). Neither the State nor any of its subdivisions nor a political self-governing body will be appointed as successor organization. The same shall apply to other rights in the nature of escheat based on any other provision of law.

ARTICLE 11

Special Rights of Successor Organizations

1. If within six months after the effective date of this Law no petition for restitution has been filed with respect to confiscated property, a successor organization appointed pursuant to Article 10 may file such a petition on or before 31 December 1948 and apply for all measures necessary to safeguard the property.
2. If the claimant himself has not filed a petition on or before 31 December 1948, the successor organization by virtue of filing the petition shall acquire the legal position of the claimant. Only after that date, and not prior thereto, shall it be entitled to prosecute the claim.
3. The provisions of paragraphs 1 and 2 hereof shall not apply if, and to the extent to which, the claimant, in the period from 8 May 1945 to 31 December 1948, has delivered a waiver of his claim for restitution, in writing and in express terms, to the restitutor, the appropriate Restitution Authority, or the Central Filing Agency.

ARTICLE 12

Obligation of Successors in Interest to Give Information

1. If so ordered by the appropriate Restitution Authority a claimant who acquired the claim for restitution directly or indirectly from the persecuted person shall submit, if known to him, either the address of his predecessors in interest, in particular of the persecuted person, or of his heirs, or execute an affidavit to the effect that he does not know the present address or any data from which it might be ascertained.
2. The successor organization appointed pursuant to Article 10 shall submit the address of the person entitled to restitution, provided it is known to it, or such data known to it which might serve to locate this person, or an affidavit signed by its legal representative to the effect that it knows neither the address of the person entitled to restitution nor any data which might serve to locate this person.

ARTICLE 13

Designation of Successor Organizations

Regulations to be issued by Military Government will provide for the manner of appointment of successor organizations, their obligations to their persecutees charges, and any further rights or obligations they may have under Military Government or German law.

ARTICLE 14

Persons Liable to Make Restitution

The person liable to make restitution (hereinafter referred to as restitutor), within the meaning of this Law, is the present possessor of confiscated tangible property or the present holder of a confiscated intangible interest, or of an aggregate of tangible and intangible property.

ARTICLE 15

Effect of an Adjudication of a Restitution Claim

1. Unless otherwise provided in this Law, a judgment directing restitution shall have the effect that the loss of the property shall be deemed not to have occurred and that after-acquired interests by third persons shall be deemed not to have been acquired.
2. Any adjudication of a restitution claim shall be effective for and against any person who participated in the proceeding or who, being entitled to participate, was duly served.

ARTICLE 16

Alternative Claim for Additional Payment

If he relinquishes all other claims under this Law the claimant may demand, from the person who first acquired the property, payment of the difference between the price

received and the fair purchase price of the property as defined in Article 3, paragraph 3. Proper interest shall be added to this amount in accordance with the provisions on profits contained in this Law.

2. The demand for payment shall not be permissible:

- (a) after the property has been restored to the claimant by a judgment no longer subject to appeal; or
- (b) after the Restitution Agency or Chamber has rendered a decision on the merits; or
- (c) after the claimant and the restitutor have reached an amicable agreement with regard to the restitution claim.

ARTICLE 17

Valuation

1. Where the value of property is relevant according to the provisions of this Law, increases in the price caused by the decrease of the purchasing power of money shall not be considered an enhancement in the value.
2. Future implementing regulations may provide for the valuation of property which, because not now determinable, is at present not subject to the property tax. The provision of Article 27, paragraph 2 shall remain unaffected.

PART IV

LIMITATIONS ON THE RIGHT TO RESTITUTION

ARTICLE 18

Expropriation

1. Confiscated property which, after the time of confiscation, was expropriated for a public purpose, or sold or assigned to an enterprise for the benefit of which the right of expropriation could be exercised, shall not be subject to restitution if on the effective date of this Law the property is still used for a public purpose, and if such purpose is still recognized as lawful.
2. If property is not subject to restitution for the reasons set forth in paragraph 1, the present owner shall compensate the claimant adequately to the extent to which his claims pursuant to Article 29 et seq. infra, do not result in such compensation.

ARTICLE 19

Protection of Ordinary and Usual Business Transactions

Except as provided in Articles 20 and 21, tangible personal property shall not be subject to restitution if the present owner or his predecessor in interest acquired it in the course of an ordinary and usual business transaction in an establishment normally dealing in that type of property. However, the provisions of this Article shall not apply to religious objects or to property which has been acquired from private ownership if such property is an object of unusual artistic, scientific, or sentimental personal value, or was acquired at an auction, or at a private sale in an establishment engaged to a considerable extent in the business of disposing of confiscated property.

ARTICLE 20

Money

Money shall be subject to restitution only if at the time he acquired the money the restitutor knew or should have known under the circumstances that it had been obtained by way of confiscation.

ARTICLE 21

Bearer Instruments

1. Bearer instruments shall not be subject to restitution if the present holder proves that, at the time he acquired the instrument, he neither knew nor should have known under the circumstances that the instrument had been confiscated at any time. Unless special circumstances indicate otherwise, good faith shall be presumed within the scope of this provision, if such property was acquired in the course of ordinary and usual business transactions, especially on the stock exchange, and if the transaction did not involve a dominant participation.
2. The provisions of paragraph 1 shall also apply to interests in bearer instruments deposited in a central account (Sammelverwahrung).
3. Bearer instruments and interests in bearer instruments shall, however, be unconditionally subject to restitution if they represent:
 - (a) a participation in an enterprise with a small number of members, such as a family corporation; or
 - (b) a participation in an enterprise the shares of which had not been negotiated on the open market; or
 - (c) a dominant participation in an enterprise as to which it was known, generally or in the trade, that a dominant participation was held by persons who belonged to one of the classes described in Article 3, paragraph 1 (b); or
 - (d) a dominant participation in a business establishment which was registered under the Third Ordinance to the Reich Citizen Law (Reichsbürgergesetz) of 14 June 1938 (RGBl. I, p. 637).
4. For the purpose of subsections (c) and (d) of paragraph 3, a participation shall be deemed to be dominant if it permitted the exercise of a considerable amount of influence upon the management of the business enterprise either by itself or on the basis of a working agreement which existed prior to or at the time of the confiscation.

ARTICLE 22

Restitution in Event of Changes in the Legal or Financial Structure of an Enterprise

If a participation of the type described in Article 21, paragraph 3 had been confiscated and if the enterprise had been dissolved or merged into, or consolidated with, or transformed into another enterprise, or had been changed in any other way in its legal or financial structure, or if its assets had been transferred wholly or in part to another enterprise, the claimant may demand that he be given an appropriate share in the modified or newly formed enterprise or in the enterprise which had acquired wholly or in part the assets of the original enterprise, thereby restoring as far as possible his original participation and the rights incident thereto.

ARTICLE 23

Enforcement of the Principles Set Forth in Article 22

The Restitution Chamber shall take all measures necessary and appropriate to effectuate the rights granted to the claimant under Article 22, provided his claims under Article 29 et seq. do not result in sufficient indemnification within the purview of Article 22. To that end the Restitution Chamber shall order, if necessary, the cancellation, new issue or exchange of shares, participation certificates, interim certificates, and other instruments evidencing a participation; or the establishment of a partnership relation between the claimant and the enterprise as described in Article 22, and it shall order the performance of any act required by law in order to effectuate those rights. These measures shall be taken primarily at the expense of those who are liable to make restitution according to the principles of this Law. If such measures would affect any other shareholder they shall be ordered only to the extent to which such other shareholder benefited directly or indirectly from the confiscation in connection with the facts as described in Article 22; or if the enterprise itself would be liable to make restitution or to damages under this Law or under the generally applicable rules of law, especially on the principle of respondent superior.

ARTICLE 24

Other Enterprises

The provisions of Articles 22 and 23 shall be applicable if the object of the confiscation was a business owned by an individual; or a participation in a partnership or a limited partnership; or a personal participation in a limited partnership corporation (*Kommanditgesellschaft auf Aktien*); or a share in an association with limited liability (*Gesellschaft mit beschränkter Haftung*) or in a cooperative; or a share of a similar legal nature.

ARTICLE 25

Service

Insofar as it may become necessary pursuant to Articles 22 to 24 to make service on any unknown associate or on any associate whose present address is unknown, service shall be made by publication pursuant to Article 61.

ARTICLE 26

Delivery of a Substitute in Lieu of Restitution

1. Where subsequent to the confiscation the object otherwise subject to restitution has undergone fundamental changes considerably enhancing its value, the Restitution Chamber may order the delivery of an adequate substitute in lieu of restitution; in determining the adequacy of the substitute the Restitution Chamber shall consider the value of the property at the time of the confiscation and the equitable interests of the parties. The claimant may, however, demand the assignment of an appropriate share in the property unless the restitutor offers a substitute of similar nature and of like value. The claimant may avail himself of the provisions of the first and second sentence above, even if the fundamental change did not result in a considerable enhancement of the value of the object.

2. The restitutor shall not be entitled to benefits of the provisions of paragraph 1 if he had acquired the object by way of an aggravated confiscation within the meaning of Article 30, or if he knew or should have known under the circumstances at the time the fundamental changes were made that the object at any time had been obtained by way of an aggravated confiscation.

3. Where the restitutor has combined the object subject to restitution with another object as an essential part thereof, he may separate the latter object and appropriate it. In this case, he shall restore the object to its former condition at his own expense. Where the claimant obtained possession of the combined objects prior to the separation he shall be required to permit the separation; he may, however, withhold his consent unless security is given to save him harmless from any damage resulting from the separation. The restitutor shall not have the privilege of separation if he is not entitled to compensation for expenditures according to the provisions of this Law; or if he is indemnified at least for the value which the separable part of the object would have to him after separation.

4. In determining whether property has been enhanced in value within the meaning of paragraph 1, sentence 1, only such enhancement in value for which the restitutor may claim compensation under the provisions of this Law shall be taken into account.

ARTICLE 27

Restitution of an Aggregate of Properties

1. The claimant may not limit his demand for restitution to separate items out of an aggregate of properties

if the aggregate can be returned as a whole and if the limitation of the restitution to separate items would inequitably prejudice the restitutor or the creditors.

2. The claimant may refuse to include in his petition any claim against a public agency falling within the scope of Article 1 of the Laws on Judicial Aid for the Equitable Settlement of Contracts, as uniformly enacted, with the consent of the Länderrat, in Bavaria, Hesse, and Württemberg-Baden, where such claims are among the assets of a commercial enterprise or of any other aggregate of property subject to restitution.

ARTICLE 28

Protection of Debtors

Until notified of the filing of the petition for restitution, the debtor of a confiscated claim may discharge his obligation by payment to the restitutor. The same rule shall apply in favor of a debtor who prior to the entry in the Land Title Register (*Grundbuch*) of an objection to its correctness or a notice of restitution makes a payment to a restitutor entered in the Land Title Register.

PART V

COMPENSATION AND ANCILLARY CLAIMS

ARTICLE 29

Subrogation

1. Upon request of the claimant, a former holder of confiscated property who would be liable to restitution if he were still holding it shall turn over any compensation or assign any claim for indemnification which he might have acquired in connection with the event preventing the return of such property. Whatever the claimant receives from one of several restitutors shall be credited against the claims he holds against the remaining ones.

2. The same shall apply with respect to any compensation or any claim for compensation which the holder or former holder of confiscated property acquired in connection with deterioration of such property.

3. In case of the confiscation of a business enterprise the claim for restitution shall extend to the assets acquired after the confiscation, unless the restitutor shows that such assets were not paid for with funds of the enterprise. If the purchase was paid for out of the funds of the enterprise, a corresponding increase in the value of the business shall be deemed to constitute profits within the meaning of Articles 30, 32, and 33. This rule shall be applicable also to any other aggregate of property. If the purchase was not made with funds of the enterprise the restitutor shall have the privilege of separation as set forth in Article 26, paragraph 3, provided, however, that the claimant shall have the privilege of taking over the property pursuant to Article 26, paragraph 3, third sentence only if otherwise the operation of the enterprise would be hampered considerably.

4. Any claims of the claimant pursuant to Article 30 et seq. which are more extensive shall remain unaffected.

ARTICLE 30

Strict Liability

1. Any person who has obtained the confiscated property from the persecuted person through a transaction *contra bonos mores* or as the result of threats made by him or on his behalf, or by an unlawful taking or other tort (hereinafter referred to as aggravated confiscation), shall be liable under the general rules of the Civil Code governing tort liability for damages arising from failure to return such property on the ground of impossibility or from deterioration and also for surrender of profits and for any other indemnification provided therein.

2. The possessor or former possessor of confiscated property shall be subject to the same liability if he knew or should have known under the circumstances (within the meaning of Section 239 of the Penal Code) at the time he acquired the property that it had been obtained at any time by way of an aggravated confiscation.

3. If the claimant is entitled to profits he may demand that they be computed on the basis of the usual rate of profits for that particular type of property, such rate to be specified by an implementing regulation, unless it is manifest in an individual case that these standard rules are substantially inappropriate.

ARTICLE 31

Mitigated Liability

1. Any holder or former holder of confiscated property who acquired the property by means of a confiscation not constituting an aggravated confiscation within the meaning of Article 30, paragraph 1, (hereinafter referred to as simple confiscation) shall be liable in damages if he is unable to return the property or if it has deteriorated, unless he can prove that he has exercised due diligence.

2. Any holder or former holder shall be similarly liable from the time when he knew, or should have known under the circumstances, that the property at any time had been obtained by way of a confiscation within the meaning of this Law.

3. Where real property or any interest in the nature of real property has been confiscated, a possessor or former possessor shall be liable according to paragraph 1, unless he shows that because of unusual circumstances he neither knew, nor should have known under the circumstances that the property at any time had been obtained by way of confiscation within the meaning of this Law.

ARTICLE 32

Return of Profits in Case of Simple Confiscation

1. Any holder or former holder of confiscated property who at any time obtained such property by way of a simple

confiscation shall pay the claimant adequate compensation for the period of time in which such holder enjoyed the profits of the property. Article 31, paragraphs 2 and 3, shall be applicable.

2. The amount of the net profits of the property less the amount of an adequate remuneration for management of the property by the restitutor shall be deemed to be an adequate compensation. The remuneration for management shall not exceed 50% of the net profits drawn from the property, except where relatively small amounts are involved. Profits which the restitutor willfully diminished or neglected to draw shall be added. Taxes paid on the net income drawn from the property and the interest on the purchase price paid by the restitutor shall adequately be taken into consideration. Paragraph 3 of Article 30 shall be applicable.

ARTICLE 33

Release from Liability

1. A holder or former holder of confiscated property shall not be liable in damages if he is unable to return the property or because the property has deteriorated, nor shall he be liable to account for profits, as long as he neither knew, nor should have known under the circumstances, that the property at any time had been obtained by way of confiscation. The provisions of Article 31, paragraph 3, shall remain unaffected.

2. Profits which under rules of good husbandry are not to be regarded as income from such property shall be returned in any event, pursuant to the rules of the Civil Code on unjust enrichment.

3. Under no circumstances shall remuneration for management be paid for a period for which the claimant cannot claim an accounting for profits.

ARTICLE 34

Compensation for Expenditures

1. Ordinary expenses for the maintenance of property subject to restitution shall not be refunded; they may, however, be taken into consideration in determining the net profits under Articles 30 and 32.

2. For other necessary expenditures compensation may be demanded to the extent that such expenditures should not have been written off in the course of proper management of the confiscated property.

3. For other than necessary expenditures the restitutor may demand compensation only to the extent that such expenditures should not have been written off in the course of proper management of the confiscated property and only to the extent to which the value of the property is still enhanced by such expenditures at the time of the restitution. In this case the liability of the claimant shall be limited to the restituted property and any other compensation to which he is entitled under this Law. The exercise of the claimant's privileges of limiting his liability shall be governed by Sections 1990 and 1991 of the Civil Code.

4. A person who at any time obtained the confiscated property by way of an aggravated confiscation may demand compensation only for necessary expenditures under the conditions set forth in paragraph 2 hereof and under the further condition that such expenditures were in the claimant's interest. The same rule shall apply to any holder or former holder of the confiscated property from the time when he knew, or should have known, under the circumstances, that the property at any time has been obtained by way of an aggravated confiscation.

5. Where the provision of Article 26, paragraph 1, are found to be applicable, no compensation can be claimed for any expenditures which resulted in a fundamental change substantially enhancing the value of the property within the meaning of Article 26, paragraph 1.

ARTICLE 35

Duty to Furnish Particulars

The parties shall be liable to furnish particulars, where such information is necessary to effectuate claims under this Law. Sections 259 to 261 of the Civil Code shall be applicable.

ARTICLE 36

Title to Increase

The provisions of the Civil Code shall be applicable to the acquisition of title to the produce and other increase of confiscated property. Where the possessor or former possessor did not obtain the property by way of an aggravated confiscation, he shall be deemed to be the owner of the produce and other increase of the confiscated property, without prejudice, however, to his obligation to return any profits.

PART VI

CONTINUED EXISTENCE OF INTERESTS AND LIABILITY FOR DEBTS

ARTICLE 37

Continued Existence of Interests

1. Any interest in the confiscated property shall continue to be effective to the extent to which it existed prior to the act constituting the confiscation, and insofar as it has not been extinguished or discharged thereafter. The same shall apply to any interest created at a later date to the extent to which the total amount of all claims (principal and accessory claims) does not exceed the total amount of all such claims as they existed prior to the act constituting the confiscation (hereinafter referred to as limit of encumbrances). An interest which does not involve

payment of money shall continue to be effective only where an interest of the same kind already existed prior to the confiscation and the interest subsequently created is not more burdensome than that existing at the time of the confiscation, or where such interest would have come into existence even though the property had not been confiscated.

2. The limit of encumbrances shall be raised to the extent to which any interest of a third person results from expenditures for which the restitutor may claim compensation pursuant to Article 34. Any other interest of a third person which exceeds the limit of encumbrances set forth in paragraph 1 of this Article and which results from expenditures for which the restitutor cannot claim compensation pursuant to Article 34 shall be extinguished, unless at the time of the restitution the value of the object is still increased correspondingly as the result of the expenditure and the third person shows that he neither knew, nor should have known under the circumstances that the property had been obtained by way of an aggravated confiscation.

3. Interests in the property subject to restitution which, in connection with the confiscation, had been created in favor of the claimant or his predecessor in interest shall continue to be effective irrespective of the limit of encumbrances. This shall be without prejudice to any claim of the claimant for the restitution of such interests in case they had been confiscated.

4. Interests resulting from the conversion of the Home-Rent Tax, with the exception of overdue payments, shall continue to be effective irrespective of the limit of encumbrances.

ARTICLE 38

Devolving of Encumbrances

If real property has been encumbered by any transaction, legal act, or any governmental act constituting a confiscation within the meaning of this Law, such an encumbrance shall devolve on the claimant and shall not be considered in computing the limit of encumbrances as provided in Article 37. This shall apply particularly to encumbrances which were entered in the Land Title Register (Grundbuch) in connection with the Capital Flight Tax, the Property Tax on Jews and similar enactments.

ARTICLE 39

Personal Liability

If, prior to the confiscation of real property, the claimant or his predecessor in interest was personally liable in respect of any debt which was secured by a mortgage, land charge (Grundschuld) or annuity charge (Rentenschuld) on the real property, he shall assume personal liability at the time of recovery of title to the extent to which the mortgage, land charge or annuity charge continues to be effective under the preceding provisions. The same shall apply in case of obligations

in regard to which the restitutor may demand to be released pursuant to Article 34 of this Law and Section 257 of the Civil Code. The same shall apply also in the case of liabilities which continue to be effective according to Article 37, paragraph 1, second sentence, and which replace charges for which the claimant or his predecessor in interest had been personally liable.

ARTICLE 40

Demand for Assignment

1. The claimant may demand the assignment to him, without compensation, of any mortgage, land charge or annuity charge against real property subject to restitution which is held by any holder or former holder of such property who at any time obtained the property by way of an aggravated confiscation. This shall not apply to the personal debt on which the mortgage is based. Any interest created prior to the confiscation shall be subject to the provisions of Article 46, paragraph 3.

2. The provisions of this Article shall not apply to encumbrances created pursuant to the provisions of this Law.

ARTICLE 41

Liability for Debts of a Business Enterprise

1. If the claimant recovers a business enterprise or another aggregate of properties, the creditors holding debts incurred in the operation of the enterprise or obligations with which the aggregate of properties has been encumbered may, from the time of the recovery, also assert against the claimant such claims as existed at such time.

2. In this case the liability of the claimant shall be limited to the restituted property and any other compensation to which he is entitled under this Law. The claimant's privilege of limiting his liability shall be governed by Sections 1990 and 1991 of the Civil Code.

3. The claimant shall not be liable under paragraphs 1 and 2 to the extent to which the total amount of liabilities exceeds the limit of encumbrances to be computed in an analogous application of Article 37, and insofar as the excess in the amount of liabilities is not covered by an excess of assets resulting from the application of Article 29, paragraph 3. In such case the Restitution Chamber, in its equitable discretion, shall take the requisite measures in analogous application of Article 37. Debts held by creditors who neither knew nor should have known under the circumstances that the business enterprise or other aggregate of properties at any time had been obtained by way of confiscation within the meaning of this Law shall have preference. Liabilities of equal priority shall be reduced pro rata, if necessary.

ARTICLE 42

Leases

1. If a restitutor or any former possessor has leased real property to a third person, the claimant may terminate the

lease by giving notice, the termination to become effective on the date prescribed by Law. Such notice cannot be given until the Restitution Authority has determined that the property is subject to restitution, and such determination is no longer subject to appeal, or until the fact that the property is subject to restitution has been acknowledged in any other way. The notice must be given within three months from such date, or from the date when the claimant in fact takes possession of the real property, if he takes possession at a later date.

2. The provisions of the Law for the Protection of Tenants (Mieterschutzgesetz) in the version of 15 December 1942 (RGBl. I, page 712) shall not apply to any restitutor or his predecessor in interest who obtained the property subject to restitution by way of an aggravated confiscation or who, at the time he acquired the property, knew, or should have known under the circumstances, that the property at any time had been obtained by way of an aggravated confiscation. The provisions of the Law for the Protection of Tenants shall also not apply insofar as the claimant is in need of adequate dwelling space for himself or his close relatives. Similarly, the Law for the Protection of Tenants shall not apply if dwelling space, which at the time of the confiscation or of the filing of the petition for restitution was used in connection with the operation of a business enterprise subject to restitution, is needed for the continued operation of such enterprise. The provisions of the Law for the Protection of Tenants shall not be applicable to space used for commercial purposes if the claimant has a legitimate interest in the immediate return of such space.

3. Leases entered into with the approval of Military Government may be cancelled only with the consent of Military Government.

ARTICLE 43

Employment Contracts

Irrespective of any contractual provision to the contrary, the claimant may terminate any existing employment contract made since the confiscation by the restitutor or any former holder of a business enterprise subject to restitution by giving notice as provided in a collective labor-agreement or in the absence thereof within the statutory period; this shall not prejudice the right of the claimant to terminate an employment contract for just cause without notice. Notice cannot be given until the Restitution Authorities have determined that the enterprise is subject to restitution and such determination is no longer subject to appeal, or until the fact that an enterprise is subject to restitution has been acknowledged in some other way. Such notice must be given within three months from such date, or from the time when the claimant in fact obtains possession of the enterprise, if he obtains possession at a later date.

PART VII

CLAIMS OF THE RESTITUTOR FOR REFUND AND INDEMNIFICATION

ARTICLE 44

Obligation to Refund

1. In exchange for the restitution of the confiscated property the claimant shall refund to the restitutor the consideration received by him, in kind if possible. This amount shall be increased by the amount of any encumbrance against the confiscated property existing at the time of confiscation and discharged thereafter, unless such encumbrance has been replaced by another encumbrance which continues to be effective, and unless the discharged encumbrance was created as the result of a confiscation within the meaning of this Law.

2. Where several items of property were confiscated for a consideration consisting of a lump sum, but restitution takes place in regard to some of these items only, the lump sum shall be reduced pro rata, in the ratio which at the time of the confiscation existed between the lump sum and the value of those items to be restituted.

3. If at the time of the confiscation the claimant, for any of the reasons set forth in Article 1, did not obtain, wholly or in part, the power freely to dispose of the consideration received, the refund shall be diminished by a like amount. The claimant shall assign to the restitutor any claim for indemnification to which he may be entitled with respect to this amount.

4. Under no circumstances shall the claimant be required to refund any amount exceeding the value of the confiscated property at the time of restitution, less the value of the encumbrance recognized against the property.

ARTICLE 45

Equitable Lien

The restitutor shall have no equitable lien (Zurückbehaltungsrecht) for his claims insofar as such lien would substantially delay the speedy restitution of the confiscated property. The same shall apply to any execution or attachment of the confiscated property based on any counterclaim.

ARTICLE 46

Judicial Determination of Terms of Payment

1. The Restitution Authorities shall determine the terms of payments to be made in connection with restitution, taking into consideration the purpose of this Law, the debtor's ability to pay, and existing statutory prohibitions and limitations on payments.

2. In cases involving the restitution of real property and interests in the nature of real property, the claimant may

demand that an adequate period not exceeding ten years be allowed for the payment of the refund and expenditures, provided that a refund-mortgage bearing 4% interest be executed on the property in favor of the restitutor. The terms shall be specified by the Restitution Authorities upon application.

3. In cases provided for in Article 34, paragraph 3, and Article 37, paragraph 2, the Restitution Authorities shall determine the maturity dates of debts and the terms of payment in such a way that the restitution of the confiscated property will not be prejudiced under any circumstances nor its enjoyment by the claimant unduly impaired.

ARTICLE 47

Claims for Indemnification

1. Claims for indemnification which the restitutor may have against any of his predecessors in interest shall be governed by the rules of the Civil Law. The liability to make restitution shall be deemed to constitute a defect in title within the meaning of the Civil Code, Section 439, paragraph 1 of the Civil Code shall not be applicable.

2. In case of restitution of real or tangible personal property, any claim provided in paragraph 1 may be asserted not only against the original party to the contract but also against any predecessor in interest who was not in good faith at the time he acquired the property. Such predecessors in interest shall be liable as joint debtors. They shall not be liable, if the restitutor himself was not in good faith.

ARTICLE 48

Lien of Third Persons on Claims of the Restitutor

1. Any interest in confiscated property which ceases to be effective pursuant to Article 37 shall remain a lien on any claim which the restitutor may have for payment of expenditures, refund of consideration and for indemnification under Articles 34, 44 and 47; and on the proceeds which the restitutor obtains on the basis of such claims.

2. This provision shall not apply in favor of such persons who by granting loans have aided an aggravated confiscation.

PART VIII

GENERAL RULES OF PROCEDURE

ARTICLE 49

Basic Principles

1. The restitution proceedings shall be conducted in such a manner as to bring about speedy and complete restitution. The Restitution Authorities may deviate in individual cases from procedural rules declared applicable by this Law, if

to do so will serve to accelerate restitution, provided that such deviation does not impair complete investigation of the facts or the legal right to a fair hearing.

2. In ascertaining the facts of the case the Restitution Authorities shall bear fully in mind the circumstances in which the claimant finds himself as a result of measures of persecution for the reasons set forth in Article 1. This shall particularly apply where the producing of evidence has been rendered difficult or impossible through the loss of documents, the death or unavailability of witnesses, the residence abroad of the claimant, or similar circumstances. Affidavits of the claimant and his witnesses shall be admitted. This shall apply even though the affiant died after signing the affidavit.

ARTICLE 50

Right of Succession and Foreign Law

1. Any person who bases any claim upon a right of succession on death must establish such right.

2. Foreign law must be proved so far as it is unknown to the Restitution Authorities.

ARTICLE 51

Presumption of Death

Any persecuted person, whose last known residence was in Germany or a country under the jurisdiction of or occupied by Germany or its Allies and as to whose whereabouts or continued life after 8 May 1945 no information is available, shall be presumed to have died on 8 May 1945; however, if it appears probable that such a person died on a date other than 8 May, the Restitution Authorities may deem such other date to be the date of death.

ARTICLE 52

Safeguarding

1. The Restitution Authorities shall, if the situation so requires, safeguard confiscated property in a suitable manner. They may to that end issue temporary injunctions (einstweilige Verfügung) or restraining orders (Arrest), either upon their own motion or upon application. Such injunctions or orders shall be modified or vacated if the property can be safeguarded by any other measures than those taken, or if there is no further need for their continuation.

2. The provisions of the Code of Civil Procedure on "Arrest und einstweilige Verfügung", as amended or as hereafter amended, shall be applicable.

ARTICLE 53

Trustee

1. Where supervision of the confiscated property is necessary, a trustee shall be appointed provided no other authority exercises jurisdiction over such property.

PROPERTY CONTROL

2. Unless provided otherwise by implementing regulation, the rules concerning the Administration of Blocked Property shall apply to the appointment and supervision of a trustee.

ARTICLE 54

Jurisdiction of Other Authorities to Take Measures as Set Forth in Articles 53 and 55

Where the safeguarding measures described in Articles 52 and 53 are within the jurisdiction of another agency, the Restitution Authorities will request the appropriate agency to take such measures.

PART IX

FILING OF CLAIMS

ARTICLE 55

Central Filing Agency

1. A Central Filing Agency for the filing of petitions for restitution will be established under regulations to be issued by Military Government.
2. The Central Filing Agency shall transmit the petition to the appropriate Restitution Agency or Agencies.

ARTICLE 56

Form Requirements and Period of Limitation for Filing Claims

1. A petition for restitution pursuant to this Law shall be submitted to the Central Filing Agency in writing on or before 31 December 1948. Details as to the form of filing will be provided in regulations to be issued by Military Government.
2. The petition shall be substantiated by documents or affidavits.
3. The petition may be effectively filed by any one of several co-claimants.
4. Any petition, filed by a person who is not entitled to restitution of the property, shall be deemed to have been effectively filed in favor of the true claimant, or where Articles 8, 10 and 11, are applicable, in favor of the successor organizations mentioned therein. The same shall apply to the filing of petition by any such successor organization.

ARTICLE 57

Relation to Other Remedies

Unless otherwise provided in this Law, any claim within the scope of this Law may be prosecuted only under the provisions, and within the periods of limitation, set forth in this Law. However, any claim based on tort, outside the scope of this Law, may be prosecuted in the ordinary courts.

ARTICLE 58

Contents of Petition to be Filed

1. The petition shall contain a description of the confiscated property. Time, place and circumstances of the confiscation shall be stated as exactly as is possible under the circumstances. If a claim is made for the payment of money, the sum demanded shall be specified if feasible; the basis for the claim shall be substantiated.
2. So far as known to the claimant, the petition shall contain the name and address of the restitutor, the names and addresses of all persons having or claiming to have an interest in the property, lessees and tenants, if any, and a statement as to all encumbrances existing at the time of the confiscation of the property.
3. The Central Filing Agency or the Restitution Authorities may request the claimant to supplement his petition by a statement containing the data set forth in paragraphs 1 and 2. They may further require the claimant to swear to his statement.
4. If the claimant does not have his domicile or residence in one of the four Zones of Occupation of Germany or in the City of Berlin, and if he has not appointed there an attorney authorized to accept service of legal papers, he may nominate in his petition a person domiciled there, authorized to receive such papers. If he fails to nominate such a person, the Restitution Agency shall do so and notify the claimant of the appointment.
5. After a petition has been filed, a receipt shall be issued by the Central Filing Agency notifying the claimant of the Restitution Agency or Agencies to which the petition has been transmitted pursuant to Article 55, paragraph 2.
6. The period of limitation provided for in Article 56, paragraph 1, shall be deemed to have been complied with by the filing of a written petition with the Central Filing Agency, although it is incomplete or in improper form.

ARTICLE 59

Venue

1. Any petition for restitution shall be transmitted by the Central Filing Agency to the Restitution Agency of the district in which the property subject to restitution is located. If it appears that a petition has been transmitted to a Restitution Agency which lacks jurisdiction, such petition shall be referred by such Restitution Agency to the Restitution Agency having jurisdiction. The order of reference shall be binding on the Agency to which the petition has been referred.
2. An implementing regulation may provide for additional rules on venue, especially of claims for compensation and ancillary claims.

ARTICLE 60

Jurisdiction of Subject Matter

The Restitution Authorities shall have jurisdiction of the subject matter irrespective of whether under any other

law a claim for restitution would come within the jurisdiction of any ordinary, administrative, or other court, or whether no court whatsoever would have jurisdiction.

ARTICLE 61

Notice of Claim

1. The Restitution Agency shall give notice of the petition by formal service on the parties concerned requiring that an answer be filed within two months. Parties concerned shall be deemed the restitutor, persons holding interests in rem, lessees or tenants of the confiscated property, as well as any other person the claimant might demand to be joined in the proceedings. If the German Reich, a Land, a former Land, the former NSDAP or one of its formations or affiliated organizations is a party concerned, service shall be made upon the State Minister of Finance. In the cases described in sentence 3 the State shall be authorized to join the proceedings as a party in interest.
2. Where the restitutor or his present address is unknown or where it appears from the petition that any unknown third person may have an interest in the confiscated property, the Restitution Agency shall cause the service by publication of the petition; the restitutor and the unknown third persons shall be requested thereby, within two months, to declare their interests together with proof thereof with the Restitution Agency. Service by publication shall be made pursuant to Section 204, paragraph 2, of the Code of Civil Procedure as amended by Control Council Law No. 38 in the form prescribed for a summons. Service shall be deemed to be effective one month after publication in the periodical specified in Section 204, paragraph 2, of the Code of Civil Procedure.
3. Upon service of the petition the case shall be deemed to be pending (rechthängig).
4. When the claim for restitution affects real property or an interest in the nature of real property, the Restitution Agency shall request that an entry in the Land Title Register be made to the effect that a claim for restitution has been filed. (Notice of restitution, Rückerstattungsvermerk.) The notice of restitution shall be effective against any third person.
5. The provisions of the Code of Civil Procedure concerning Third Party Practice shall be applicable.

ARTICLE 62

Procedure before the Restitution Agency

1. If no objection has been raised against a petition within the time specified in the notice or in the service by publication, the Restitution Agency shall issue an order granting the petition. Where there is no dispute as to the limit of encumbrances and as to the continued existence of interests, it shall also make the appropriate findings on these matters.
2. If, however, the claim for restitution does not state a cause of action, or the truth of any of the allegations contained therein is controverted by entries in public records or by public documents available to the Restitution Agency, the latter shall order the claimant to submit a statement within an appropriate period of time. The Agency shall dismiss the petition on the merits if the claimant does not submit within this period an explanation justifying his petition or supplementing the facts alleged therein.
3. If an objection is made the Restitution Agency shall attempt to reach an amicable settlement unless the futility of such effort is evident. When an amicable settlement has been reached the Restitution Agency shall, on application, record the settlement in writing, and shall deliver a certified copy of the settlement to the parties concerned.

ARTICLE 63

Reference to the Court

1. If an amicable agreement cannot be reached in whole or in part or if the measures to be taken are not within the power of the Restitution Agency, it shall refer the case to the extent necessary to the Restitution Chamber of the District Court having jurisdiction over the Restitution Agency. This shall apply in particular also to cases where only the limit of encumbrance, or the continued existence of interests or the liability for debts is disputed.
2. Implementing regulations may confer jurisdiction on certain District Courts or on District Courts other than those specified in paragraph 1.
3. The Restitution Agency may stay the proceedings for a period not exceeding six months before referring the case to the Restitution Chamber, if the claimant consents and an amicable agreement may be expected.

ARTICLE 64

Appeal (Einspruch)

1. Any party to the case, by filing an appeal with the Restitution Agency, may appeal to the Restitution Chamber from a decision of the Restitution Agency rendered pursuant to Article 59, paragraph 1, second sentence, or Article 62, paragraphs 1 and 2; the period in which to file the appeal shall be one month; it shall be three months, if the appellant resides in a foreign country. The period to appeal shall begin to run with the service of the decision to be appealed from. Article 61, paragraph 2, shall be applicable.
2. The appeal may be based only on a violation of Article 59, paragraph 1, second sentence, or Article 62, paragraphs 1 or 2.

ARTICLE 65

Execution

Agreements recorded by the Restitution Agency and orders of the Restitution Agency which are no longer subject to appeal may be enforced by execution pursuant to the pro-

visions of the Code of Civil Procedure. For this purpose, the Restitution Agency shall have the powers of a court (Vollstreckungsgericht). In effecting execution, the Restitution Agency may avail itself of the services of other agencies, especially of the courts.

PART X JUDICIAL PROCEEDINGS

ARTICLE 66

Members of the Restitution Chamber

The Restitution Chamber shall be composed of a Presiding Judge and two Associate Judges, eligible for the office of judge or for the higher Administrative Service. The Presiding Judge shall be a judge normally assigned to a court. The Associate Judges shall be appointed for a term of three years, unless they are professional judges. One of the three judges shall belong to a class of persons persecuted for any of the reasons set forth in Article 1.

ARTICLE 67

Procedure

1. The Restitution Chamber shall adjust the legal relations of the parties in interest according to the provisions of this Law.

2. Unless this Law provides otherwise, the procedure shall be governed by the rules of procedure applicable in matters of non-contentious litigation, subject, however, to the following modifications:

- (a) The Chamber shall order an oral hearing; the hearing shall be public.
- (b) The proceedings may be stayed for a period not to exceed six months, at the request of the claimant. Repeated stays may be granted after the case has been reopened.
- (c) The Chamber shall render partial judgment on one or more of the claims before it, or on part of a claim, where the determination of any counterclaim, offset or equitable lien or any other defense in the nature of an offset or a counterclaim would substantially delay the decision on restitution.
- (d) Without prejudice to the final decision, the Chamber may order the temporary surrender of the confiscated property to the claimant either with or without security. In this case the claimant shall have, with respect to third persons, the rights and obligations of a trustee.

ARTICLE 68

Form and Contents of the Decision

1. The decision of the Restitution Chamber shall be pronounced in an order supported by an opinion; the order shall be served on the parties concerned. Immediate execution may be had on this order, a subsequent appeal notwithstanding. The provisions of Sections 713, paragraph 2, and Sections 713a to 720 of the Code of Civil Procedure shall be applicable.

2. An appeal (sofortige Beschwerde) may be taken from this order within one month; the appeal may be filed within three months if the appellant resides in a foreign country. The time to appeal shall begin to run from the date of service of the order; Article 61, paragraph 2, shall be applicable. The Civil Division of the Court of Appeals (Oberlandesgericht) shall hear the appeal. The appeal may be based only on the ground that the decision violated the law. The provisions of Sections 561, 561 and 563 of the Code of Civil Procedure shall be applicable.

3. Implementing regulations may confer jurisdiction to hear such appeals on a certain Court of Appeals.

ARTICLE 69

Board of Review

A Board of Review shall have the power to review any decision on any claim for restitution under this Law and to take whatever action is deemed necessary with respect thereto. Regulations to be issued by Military Government will provide for the appointment and composition of the Board, its jurisdiction, procedure, and such other matters as are deemed appropriate.

PART XI SPECIAL PROCEEDINGS

ARTICLE 70

Petition by the Public Prosecutor

Where no petition for the restitution of confiscated property has been filed on or before 31 December 1948, the Public Prosecutor at the seat of the Restitution Chamber may file the petition for restitution on behalf of a successor organization provided for in Article 10. This provision shall not apply if the claimant has waived his claim for restitution in accordance with Article 11, paragraph 3. The petition of the Public Prosecutor must be filed on or before 30 June 1949.

ARTICLE 71

Conflict of Jurisdiction

1. If claims as described in Articles 1 to 48 are asserted by a person entitled to restitution in a court proceeding including the stage of compulsory execution by way of complaint, defense or counterclaim, the Court shall, notify the Restitution Agency. The Court may, and on request by the Restitution Agency must, stay the proceedings or temporarily suspend execution by an order from which no

appeal may be taken. The Restitution Agency may direct that the claim be dealt with under this Law to the exclusion of the jurisdiction of the ordinary civil courts, or it may authorize the claimant to prosecute his claim before the ordinary civil courts; such authorization shall be binding on the latter courts. If an action in the ordinary civil courts is terminated because the claim is being dealt with under this Law, the court fees shall be remitted and neither party shall be entitled to costs incurred out of court.

2. The Court shall report to the Central Filing Agency any action taken under paragraph 1.

PART XII

ASSESSMENT OF COSTS

ARTICLE 72

Costs

1. As a rule no court fees be assessed in favor of the State (Gerichtskosten) in proceedings before Restitution Authorities. However, implementing regulations may provide for the assessment of costs, fees and expenses.

2. No advance payment, or bond or security for costs may be demanded from a claimant.

PART XIII

DUTY TO REPORT AND PENALTIES

ARTICLE 73

Duty to Report

1. Anyone who has, or has had in his possession, at any time after it was transferred by or taken from a persecuted person, any property which he knows or should know under the circumstances

- (a) is confiscated property within the meaning of the provisions of Article 2; or
- (b) is presumed to be confiscated property pursuant to the provisions of paragraph 1 of Article 3; or
- (c) has been at any time the subject of a transaction which may be avoided pursuant to the provisions of paragraph 1 of Article 4.

shall report this fact in writing to the Central Filing Agency on or before 15 August 1948.

The report to be filed hereunder shall show the exact circumstances under which the reporting person obtained possession of the property; it shall also contain the name and address of the person from whom the reporting person acquired the property as well as the consideration paid, and in case the property no longer is in his possession, the name of the person to whom the property was transferred.

¹ Amendment No. 1, effective 15 May 1948 changes "May" to "August", Ed.

2. The following property need not be reported:

- (a) Tangible personal property which had been acquired in the course of an ordinary and usual business transaction in an establishment normally dealing in that type of property, provided, however, that property acquired at an auction, or at a private sale in an establishment engaged to a considerable extent in the business of auctioning or otherwise disposing of confiscated property, must be reported;
- (b) Tangible personal property, the value of which did not exceed RM 1,000 at the time of the confiscation;
- (c) Donations made to close relatives (as defined in Section 52, paragraph 2 of the Criminal Code) and donations which without doubt were made for moral consideration;
- (d) Property which has already been restituted and property as to which the claimant has relinquished his right of restitution expressly and in writing at any time between 8 May 1945 and the effective date of this Law.

3. No report filed pursuant to paragraph 1 by any person shall be considered, in proceedings before a Restitution Authority, as an admission of the reporting party that the property so reported is subject to restitution or as a waiver of any defense he might have had if the report had not been filed. It shall be admissible, however, as an admission of the facts stated therein.

4. The Central Filing Agency, upon receiving a report under this Article shall forward a copy of the report to the appropriate Restitution Agency or Agencies in each district in which property affected by the report is situated. All reports filed pursuant to the provisions of this Article shall be open to inspection.

ARTICLE 74

Obligation to Inspect the Land Title Register and other Public Registers

1. Anyone holding real property or an interest in the nature of real property, shall ascertain by inspection of the Land Title Register whether or not the property in question must be reported. The same shall apply with respect to other property interests which are recorded in any other public register.

2. Whenever a public authority or other public agency learns of the whereabouts of property which must be reported, it shall report such fact without delay to the Central Filing Agency. Article 73, paragraph 4, shall be applicable.

ARTICLE 75

Penalties

1. Any person who
 - (a) intentionally or negligently fails to comply with

his duty to report as set forth in Articles 73 and 74; or,

(b) knowingly makes any false or misleading statements to the Restitution Authorities, shall be punished with imprisonment not exceeding five years, or a fine, or both, unless heavier penalties under any other law are applicable.

2. No penalty shall be imposed in the case of subparagraph (a), where the report required by this Law has been made voluntarily and prior to discovery.

ARTICLE 76

Penalties (continued)

1. Whoever alienates, damages, destroys, or conceals any property coming under the provisions of this Law in order to thwart the rights of a claimant, shall be punished with imprisonment not exceeding five years, or a fine, or both, unless heavier penalties under any other law are applicable.

2. Confinement in a penitentiary up to five years may be imposed in especially serious cases.

3. The attempt shall be punishable.

ARTICLE 77

Penalties (continued)

In the cases within the scope of Articles 75 and 76, nobody may plead ignorance of facts which he could have ascertained by the inspection of public books and registers, and to the extent to which Article 74 imposed on him the obligation of such inspection.

PART XIV

RE-ESTABLISHMENT OF RIGHTS OF SUCCESSION AND ADOPTION

ARTICLE 78

Exclusion from Inheritance

1. An exclusion from the right of succession or the forfeiture of an estate which occurred during the period from 30 January 1933 to 8 May 1945 by virtue of a law or an ordinance for any of the reasons set forth in Article 1 shall be deemed not to have occurred.

2. The succession shall be deemed to have occurred at the effective date of this Law for the purpose of determining the periods of limitation.

ARTICLE 79

Avoidance of Testamentary Dispositions and of Disclaimers of Inheritance

1. Testamentary dispositions and contracts of inheritance made in the period from 30 January 1933 to 8 May 1945 in which any descendant, parent, grandparent, brother, sister, half-brother, half-sister, or their descendants, as well as a spouse, was excluded from inheritance for the purpose of avoiding a seizure of the estate by the State, expected by the testator for any of the reasons set forth in Article 1, shall be voidable. The power of avoidance shall be governed by Sections 2080 et seq. or 2281 et seq. of the Civil Code, unless paragraph 3 *infra* provides otherwise.

2. Disclaimers of inheritance by persons described in paragraph 1 shall be voidable, provided that such disclaimers were made within the period from 30 January 1933 to 8 May 1945 in order to prevent an expected seizure of the property by the State for any of the reasons set forth in Article 1. The right of avoidance shall be governed by Sections 1954 et seq. of the Civil Code, unless paragraph 3 of this Article provides otherwise.

3. Testamentary dispositions, contracts of inheritance or disclaimers of inheritance must be voided on or before 31 December 1948. The exercise of the power of avoidance within this period shall be deemed timely.

ARTICLE 80

Testamentary Disposition of a Persecuted Person

1. A testamentary disposition made between 30 January 1933 and 8 May 1945 shall be valid in spite of complete non-compliance with form requirements if the testator made such disposition in view of an actual or imaginary immediate danger to his life based on measures of persecution for any of the reasons set forth in Article 1, and where the circumstances were such that he could not or could not be expected to, comply with the statutory form requirements.

2. Any testamentary disposition coming within the scope of paragraph 1 shall be deemed not to have been made if the testator was still capable of making a testamentary disposition complying with the statutory form requirements after 30 September 1945.

ARTICLE 81

Re-Establishment of Adoptions

1. If an adoption relationship was cancelled within the period from 30 January 1933 to 8 May 1945 for any of the reasons set forth in Article 1, such relationship may be reinstated *nunc pro tunc* by a contract between the foster parent or his heirs and the child or his heirs. Sections 1741 to 1772 of the Civil Code, with the exception of Sections 1744, 1745, 1747, 1752 and 1753, shall apply to the contract of reinstatement. A contract of reinstatement may be judicially confirmed even after the death of the parties to it. If one of the parties concerned is not available, a guardian (Pfleger) may be appointed to represent his interests in the proceedings to reinstate the adoption.

2. Where an adoption was cancelled by decision of a court during the period from 30 January 1933 to 8 May 1945 for

any of the reasons set forth in Article 1, and if no facts have appeared which thereafter would have caused contracting parties to revoke the adoption on their own initiative, either party to the contract or his heirs may demand that the decision be vacated.

3. The local court (Amtsgericht) which cancelled the adoption shall have jurisdiction in the cases set forth in paragraph 2. The principles of paragraph 1, fourth sentence, above, shall be applicable. The decision of the court shall be discretionary and shall take into account the equities of the parties. When the cancellation of the adoption is vacated, the adoption shall be reinstated *nunc pro tunc*. The court may exclude the retroactive effect of its decision from certain parts thereof.

4. No costs or fees shall be charged in these proceedings.

5. The application for re-establishment of an adoption must be made on or before 31 December 1948.

ARTICLE 82

Jurisdiction

Any claims arising under Articles 78 to 81 shall be decided by the ordinary civil courts. No filing with the Central Filing Agency is required.

PART XV

REINSTATEMENT OF TRADE NAMES AND OF NAMES OF ASSOCIATIONS

ARTICLE 83

Re-Registration of Cancelled Trade Names

1. Where a trade name was cancelled in the Commercial Register within the period from 30 January 1933 to 8 May 1945 after the business establishment had been closed for any of the reasons set forth in Article 1, the cancelled trade name shall be re-registered on application if the business is reopened by its last owner, or owners, or their heirs.

2. If the closed business establishment was conducted at the time of its discontinuation by a single owner, the last owner or his heirs shall be entitled to demand the re-registration of the cancelled trade name. If there are several heirs, and if not all of them participate in the resumption of the enterprise, the re-registration of the cancelled trade name may be demanded, provided the heirs who do not participate in the business assent to the resumption of the trade name.

3. If at the time of its closing the business establishment was conducted by several personally liable partners, re-registration of the cancelled trade name may be demanded if all the personally liable partners establish a business enterprise or if one or several of them do so with the consent of the remaining ones; with respect to heirs of partners the principle of paragraph 2 shall be applicable.

ARTICLE 84

Change of Trade Name

Where a trade name has been changed in the period from 30 January 1933 to 8 May 1945 for any of the reasons set forth in Article 1, the former trade name may be restored upon the application of the person who owned the enterprise at the time the change was made or of his heirs, provided they now own the enterprise. The principles of Articles 83, paragraph 2, second sentence, and paragraph 3, shall be applicable.

ARTICLE 85

Names of Corporations

The principles of Articles 83 and 84 shall be applicable to the trade names of corporations.

ARTICLE 86

Reinstatement of Trade Names in Other Cases

Whenever the use of the former trade name is essential for the purpose of full restitution, the Restitution Chamber may permit the reinstatement of a cancelled or changed trade name in cases other than those provided for in Articles 83 to 85.

ARTICLE 87

Names of Associations and Endowments (Stiftungen)

Article 86 shall be applicable to the resumption of the name by an association or an endowment.

ARTICLE 88

Procedure

Applications for the registration in the Commercial Register of former trade names must be filed within the period provided for in this Law for the filing of claims for restitution. The Amtsgericht in its capacity as Court of Registry shall have jurisdiction over these applications except in the cases provided for in Article 86. Otherwise the procedure shall be governed by the rules of procedure applicable in matters of non-contentious litigation. No costs or fees shall be charged in these proceedings.

PART XVI

FINAL PROVISIONS

ARTICLE 89

Claims Reserved to Special Legislation

The reinstatement of lapsed interests arising out of insurance contracts and of lapsed copyrights and industrial rights (patents etc.) may be regulated by special legislation.

PROPERTY CONTROL

ARTICLE 90

Statute of Limitations

To the extent to which the statute of limitations or prescriptive rights of the Civil Code might defeat any claim falling under this Law, the statute of limitations or a prescriptive period shall not be deemed to have expired until six months after such cause of action arises by reason of operation of this Law, but in no event prior to 30 June 1949.

ARTICLE 91

Taxes and Other Levies

1. Taxes and other public levies shall not be imposed in connection with restitution.
2. No taxes, including inheritance taxes, or other public assessments, fees or costs shall be refunded or subsequently levied in connection with the return of confiscated property.

ARTICLE 92

Implementing and Carrying-out Provisions

1. The Restitution Agencies will be designated by implementing regulations.
2. Unless otherwise provided in this Law, or ordered by Military Government, the Minister President of each State or any Ministers designated by him, shall issue the legal and administrative regulations necessary for the implementation of this Law.

ARTICLE 93

Jurisdiction of German Courts

1. German Courts are hereby authorized to exercise jurisdiction in civil cases arising under this Law against any stateless person having the assimilated status of United Nations displaced persons or against any national of the United Nations not falling within categories (3), (4), (5) of Section 10 (b) in Article VI of Military Government Law No. 2, as amended or as hereafter amended.
2. German Courts are hereby authorized to exercise jurisdiction in cases involving offenses against any of the provisions of Articles 73 to 77 of this Law by persons not exempted from the jurisdiction of the German Courts under Section 10 (a) in Article VI of Military Government Law No. 2 as amended or as hereafter amended.

ARTICLE 94

Official Text

The German text of this Law shall be the official text and the provisions of Paragraph 5 of Article II of Military Government Law No. 4, as amended, shall not apply.

ARTICLE 95

Effective Date

This Law shall become effective in Bavaria, Bremen, Hesse and Württemberg-Baden on 10 November 1947.

BY ORDER OF MILITARY GOVERNMENT

MILITARY GOVERNMENT — GERMANY
UNITED STATES AREA OF CONTROL

REGULATION NO. 1

UNDER MILITARY GOVERNMENT LAW NO. 59

Establishment of Central Filing Agency and Manner of Filing Claims for Restitution

Pursuant to Articles 55 and 56 of Military Government Law No. 59, "Restitution of Identifiable Property", it is hereby ordered as follows:

I. Establishment of Central Filing Agency

1. There is hereby established the Central Filing Agency (Zentralanmeldeamt) provided for in Article 55 of Military Government Law No. 59, the mailing address of which is:
Zentralanmeldeamt (Central Filing Agency)
Bad Nauheim, Germany
2. This Agency is hereby vested with all powers and responsibilities which the Central Filing Agency has under the provisions of Military Government Law No. 59.

II. Manner of Filing Claims for Restitution

1. In order to facilitate the speedy handling of claims, the petition containing the claim for restitution should follow the outline set out in the Appendix hereto. All information therein requested should be given, to the extent to which it is known, in exact and concise form.
2. Where the claimant desires to give more extensive explanations, they should be added as numbered annexes to the petition, together with appropriate documents and affidavits.
3. No printed forms need be used. The petition shall contain the required information in the order in which it is set forth in the Appendix hereto and each item thereof shall be given a number appearing on the left margin of the paper, corresponding to the number set forth in the Appendix. The sheets of paper on which the claim is typed should, for uniformity, be 8 1/2 inches wide and between 11 and 13 inches long, or have dimensions as similar as possible. All copies should be typewritten on one side of the sheet only and shall be legible. A minimum of five copies of the petition and accompanying documents should be filed together with such additional copies as may be re-

quired for the service of one copy on each interested party to the proceeding. (See Article 61 of Military Government Law No. 59).

4. Since the Law will be administered by German agencies, the petition should be written in German, if possible; otherwise, the English language shall be used. Affidavits submitted in any other language shall be accompanied by a translation in German.

5. In so far as possible, a separate petition should be filed for each claim:

- a. where more than one act of confiscation is the basis for the claims, or
- b. where the properties claimed are presently in more than one location.

6. Original documents should not be filed but should be retained by the claimant until requested by the Restitution Authority. However, true copies or photocopies of pertinent documents should be attached to all claims filed. Pictures or drawings, should be furnished, if possible, where they are necessary in order to present an adequate description of the property.

7. Each petition shall be dated and shall be signed by the claimant or by his duly authorized representative; if signed by a person other than the claimant, the power of attorney or other authorization of such a person should accompany the claim.

III. Penalties for False Claims.

Any person knowingly making false statements in connection with a claim for restitution under Military Government Law No. 59 will be liable to punishment under Article II, paragraph 33, of Military Government Ordinance No. 1.

IV. Effective Date.

This regulation shall become effective on 10 November 1947.

BY ORDER OF MILITARY GOVERNMENT.

APPENDIX

OUTLINE OF INFORMATION REQUESTED IN A PETITION FOR RESTITUTION UNDER MILITARY GOVERNMENT LAW NO. 59

PART A.

Information Concerning the Claimant, his Attorney or Agent, if any, and the Persecuted Person

I. Information Concerning the Claimant:

1. Last name, first name, and middle name (in full).
2. Permanent residence.
3. Present address.
4. Address to which correspondence with the claimant concerning this claim should be sent.
5. Name and address of person within Germany who is authorized by the claimant to receive service of legal papers on his behalf; (see Article 58, paragraph 4).
6. If claimant is not the persecuted person, state all facts on which claimant bases his right to succeed to claim of the persecuted person. Attach copies of any pertinent documents. In the event that claim is based on an assignment, copies of the Military Government license authorizing such assignment should be attached.

II. Information Concerning the Agent of the Claimant, if any:

7. Last name, first name, and middle name (in full).
8. Address.
9. Nature of agency (attorney-at-law, attorney-in-fact, guardian, etc.). Attach copies of appropriate documents showing agency.

III. Information Concerning Persecuted Person:

10. Last name, first name, and middle name (in full).
11. Present address, if living.
12. Last known residence and address in Germany.
13. Residence and address at the time of the act of confiscation.

PART B

Information Concerning Property Claimed

I. Real Property and Interests in Real Property:

14. Detailed description of real property or of interests therein.
15. Location of the property.
16. Description of entry of property in Land Title Register (Grundbuch).

II. Business Enterprises:

17. Name and description of the business enterprise.
18. Location of the business enterprise:
 - a. at the time of the confiscation,
 - b. if moved, present or last-known address and location.
19. Description of entry in the Commercial Register (Handelsregister).

III. Securities: (Bonds, shares, etc.)

20. Give an exact description of the type, certificate number, etc. of the security. If an interest in or an obligation of an organization, give name and address of such organization.

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21. Give location of the instrument at the time of the confiscation and present, or last known location.

IV. All Other Personal Property:

22. Give a detailed description of the property involved and all pertinent information with respect thereto, including location at the time of the confiscation and its present or last known location.

V. All Other Property Not Heretofore Mentioned:

23. Give a detailed description of the property involved and all other pertinent information with respect thereto, including, where relevant, location at the time of the confiscation and its present or last known location.

PART C

Statement of Facts Concerning Act of Confiscation

I. Information Concerning Property Prior to the Time of the Confiscation:

24. Date of the acquisition of the property by the persecuted person.
25. Purchase price paid by the persecuted person.
26. Value of the property at the time of the acquisition described at item 24.
27. State in detail facts concerning improvements or any accretions, depreciation, and other changes in value of the property prior to the act of confiscation.
28. In case the claimant, at the time of the confiscation, was not the sole owner of the property claimed, state names, addresses, as well as legal nature, and percentage of interest of all other co-owners of the property.
29. Describe other rights and interests of third persons in the property, such as mortgages, liens, pledges, etc. Give all the facts and data concerning such persons, particularly names, addresses, as well as legal nature, extent and amount of their interests.

II. Information Concerning the Act of Confiscation:

30. Date and place of transaction which constituted the act of confiscation.
31. Give exact information as to the facts and circumstances by reason of which it is claimed that:
- a. a confiscation within the meaning of Article 2 occurred, or
 - b. a presumption within the meaning of Article 3 arises, or
 - c. the power of avoidance within the meaning of Article 4 arises.
- State clearly if the claim is based on more than one of these categories.
32. Purchase price specified at the time of the transfer of the property.
33. Any other terms specified at the time of the transfer of the property.
34. Consideration received at the time of the transaction and subsequently thereto. State consideration paid or given by the transferee, specify the amounts, time and place of payments, to whom the amounts were paid, and all other pertinent circumstances.
35. State any restrictions placed upon the use by the persecuted person of the consideration paid or given by the transferee.
36. Did the consideration received constitute a fair purchase price within the meaning of Article 3, paragraph 3? If not, what would have been a fair purchase price? State basis of estimate.
37. Give all other pertinent information, particularly names and addresses of witnesses capable of testifying to the statements made in Part C, Section II; attach copies of any pertinent evidentiary documents, etc.

III. Information Concerning the Property After the Act of Confiscation:

38. In instances where an accounting under the Law is claimed, give all pertinent information showing the basis of such claim, including information with respect to profits, losses, accretions, improvements, deterioration, damage, loss, management, expenses, etc. Give all other pertinent information necessary for such accounting between the parties with names and addresses of witnesses capable of testifying to the statements made in Part C, Section III; attach copies of pertinent evidentiary documents, etc.

IV. Information with Respect to the Restitutor and All Other Parties to the Proceedings, Except the Claimant:

39. Give full names, present or last known addresses, and extent of participation in, or knowledge of, the transaction or confiscation with respect to:
- a. the person who first acquired the property from the persecuted person, also, his address at the time of confiscation;
 - b. all persons (except present holder) subsequently holding the property;
 - c. the present or last known holder;
 - d. all other persons claiming an interest in the property (mortgagees, tenants, etc.).
40. Give all other pertinent information, particularly names and addresses of witnesses capable of testifying to the statements made in Part C, Section IV; attach copies of pertinent evidentiary documents, etc.

V. Other Information:

41. Any other pertinent information deemed necessary to

give a full statement of the petitioner's claim for restitution.

PART D

Prayer for Relief

The Restitution Authority will not enter an order for restitution or other relief under this Law unless the claimants sets forth, in a prayer, the relief sought, detailed in the manner in which he desires it to appear in the final order of the Restitution Authority. In setting forth the prayer for relief in this Part, the following information should be included:

42. State, whether, in lieu of all other claims for restitution, the claimant elects the remedy set forth in Article 18 of the Law, if so, the amount claimed thereunder.
43. In case the remedy set forth in Article 18 is not elected, state with respect to each item of property listed in Part B, and with respect to each person named in Section IV of Part C, the specific relief sought, in particular:
- a. whether, and to what extent, restitution in kind is requested;
 - b. in case restitution in kind is not possible or in case of deterioration, whether compensation is requested, and, if so in what amount;
 - c. whether, and in what amount a claim is made for rents, use, profits, etc.;
 - d. whether and to what extent any other relief is sought under the provisions of this Law.

PART E

I/We, hereby declare that all information given in the foregoing petition is to the best of my/our knowledge accurate, complete and true.

Date

Signature

MILITARY GOVERNMENT — GERMANY UNITED STATES AREA OF CONTROL

GENERAL AUTHORIZATION NO. 2

PURSUANT TO REGULATION NO. 1

UNDER MILITARY GOVERNMENT LAW NO. 2

1. A General Authorization is hereby granted by Military Government pursuant to the provisions of paragraphs 3(b), 5(b), and 5(c) of Regulation No. 1 under Military Government Law No. 2, "German Courts", for the performance of any official act of the character described in paragraph 3(a) of such Regulation, for the entry upon the commercial register, register of cooperatives, register of associations or ship register, as prescribed in paragraph 5(b) of such Regulation and for the entry upon the land register or other public register as prescribed in paragraph 5(c) of such Regulation, provided that such official act or register entry appear necessary or appropriate for the administration of Military Government Law No. 59, "Restitution of Identifiable Property".

2. This General Authorization shall not be deemed to constitute a license under the provisions of either Military Government Law No. 52 (amended), "Blocking and Control of Property", or Military Government Law No. 53, "Foreign Exchange Control".

3. This General Authorization shall become effective on 10 November 1947.

BY ORDER OF MILITARY GOVERNMENT.

MILITARY GOVERNMENT — GERMANY
UNITED STATES AREA OF CONTROL

REGULATION NO. 2

UNDER MILITARY GOVERNMENT LAW NO. 59

Filing of Reports as Required by Military Government Law No. 59

Pursuant to Articles 73 and 74 of Military Government Law No. 59, "Restitution of Identifiable Property" (see Appendix 'A'), all persons holding certain property which may be subject to restitution under this Law are required to file, on or before 15 May 1948, a report concerning such property, with the Zentralanmeldeamt (Central Filing Agency), Bad Nauheim, Germany, as established by Regulation No. 1 under this Law. Pursuant to Articles 75, 76 and 77 of this Law (see Appendix 'A'), penalties are provided for the failure of such persons to file such reports. Pursuant to Article 92 of this Law and in implementation of Articles 73 and 74 thereof, it is hereby ordered as follows:

I. Manner of Filing Reports:

1. The report should follow the outline set out in Appendix 'B'. All information required should be given in exact and concise form.

2. When the reporting person desires to give more extensive explanations, they should be added as numbered

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annexes to the report, together with appropriate documents and affidavits.

3. No printed form need be used. The report should contain the required information in the order in which it is set forth in Appendix 'B' and each item thereof shall be given a number, appearing in the left margin of the paper, corresponding to the number set forth in Appendix 'B'. The sheets of paper on which the report is typed should, for uniformity, be 8 1/2 inches wide and between 11 and 13 inches long, or have dimensions as similar as possible. All copies should be typewritten on one side of the sheet only and shall be legible. The report shall be written in German; one original and two duplicate copies thereof shall be filed.

4. Property in different location should be reported separately.

5. Each report should be dated and shall be signed by the person filing the report or by his duly authorized representative; if signed by a person other than the reporting person, the power of attorney or other authorization of such a person shall accompany the report.

II. Effective Date:

This regulation shall become effective on 10 November 1947.

BY ORDER OF MILITARY GOVERNMENT.

APPENDIX A

RELEVANT ARTICLES FROM MILITARY GOVERNMENT LAW NO. 59 AND FROM REGULATION NO. 1 ISSUED THEREUNDER

EXCERPTS FROM MILITARY GOVERNMENT LAW NO. 59

ARTICLE 2

Acts of Confiscation

1. Property shall be considered confiscated within the provisions of this Law if the person entitled thereto has been deprived of it, or has failed to obtain it despite a well founded legal expectancy of acquisition, as the result of:

- (a) A transaction contra bonos mores, threats or duress, or an unlawful taking or any other tort;
- (b) Seizure due to a governmental act or by abuse of such act;
- (c) Seizure as the result of measures taken by the NSDAP, its formations or affiliated organizations;

provided the acts described in (a) to (c) were caused by or constituted measures of persecution for any of the reasons set forth in Article 1.

2. It shall not be permissible to plead that an act was not wrongful or contra bonos mores because it conformed with a prevailing ideology concerning discrimination against individuals on account of their race, religion, nationality, ideology or their political opposition to National Socialism.

3. Confiscation by a governmental act within the meaning of paragraph 1 (b) shall be deemed to include, among other acts, sequestration, confiscation, forfeiture by order or operation of law, and transfer by order of the State or by a trustee appointed by the State. The forfeiture by virtue of a judgment of a criminal court shall also be considered a confiscation by a governmental act, if such judgment has been vacated by order of an appropriate court or by operation of law.

4. A judgment or order of a court, or of an administrative agency, which, although based on general provisions of law, was handed down solely or primarily with the purpose of injuring the party affected by it for any of the reasons set forth in Article 1 shall be deemed a specific instance of the abuse of a governmental act. The abuse of a governmental act shall also include the procurement of a judgment or of measures of execution, by exploiting the circumstance that the opponent was, actually or by law, prevented from protecting his interests by virtue of his race, religion, nationality, ideology or his political opposition to National Socialism. The Restitution Authorities (Restitution Agency, Restitution Chamber and Oberlandesgericht) shall disregard any such judgment or order of a court or administrative agency whether or not it may otherwise be appealed or reopened under existing law.

ARTICLE 3

Presumption of Confiscation

1. It shall be presumed in favor of any claimant that the following transactions entered into between 30 January 1933 and 8 May 1945 constitute acts of confiscation within the meaning of Article 2:

- (a) Any transfer or relinquishment of property made during a period of persecution by any person who was directly exposed to persecutory measures on any of the grounds set forth in Article 1;
- (b) Any transfer or relinquishment of property made by a person who belonged to a class of persons which on any of the grounds set forth in Article 1 was to be eliminated in its entirety from the cultural and economic life of Germany by measures taken by the State or the NSDAP.

(Paragraphs 2 and 3 are omitted).

ARTICLE 4

Power of Avoidance

1. Any transaction entered into by a person belonging to a class referred to in Paragraph 1 (b) of Article 3 within the period from 15 September 1935 (the date of the first

Nuremberg laws) to 8 May 1945 may, because of the duress imposed on such class, be avoided by a claimant where such transaction involved the transfer or relinquishment of any property unless:

- (a) The transaction as such and with its essential terms would have taken place even in the absence of National Socialism, or
- (b) The transferee protected the property interests of the claimant (Article 7) or his predecessor in interest in an unusual manner and with substantial success, for example, by helping him in transferring his assets abroad or through similar assistance.

(Paragraphs 2 to 5 are omitted).

ARTICLE 73

Duty to Report

1. Anyone who has, or has had in his possession, at any time after it was transferred by or taken from a persecuted person, any property which he knows or should know under the circumstances:

- (a) is confiscated property within the meaning of the provisions of Article 2; or
- (b) is presumed to be confiscated property pursuant to the provisions of paragraph 1 of Article 3; or
- (c) has been at any time the subject of a transaction which may be avoided pursuant to the provisions of paragraph 1 of Article 4,

shall report this fact in writing to the Central Filing Agency on or before 15 May 1948.

The report to be filed hereunder shall show the exact circumstances under which the reporting person obtained possession of the property; it shall also contain the name and address of the person from whom the reporting person acquired the property as well as the consideration paid, and in case the property no longer is in his possession, the name of the person to whom the property was transferred.

2. The following property need not be reported:

- (a) Tangible personal property which had been acquired in the course of an ordinary and usual business transaction in an establishment normally dealing in that type of property, provided, however, that property acquired at an auction, or at a private sale in an establishment engaged to a considerable extent in the business of auctioning or otherwise disposing of confiscated property, must be reported;
- (b) Tangible personal property, the value of which did not exceed RM 1,000 at the time of the confiscation;
- (c) Donations made to close relatives (as defined in Section 52, paragraph 2 of the Criminal Code) and donations which without doubt were made for moral considerations;
- (d) Property which has already been restituted and property as to which the claimant has relinquished his right of restitution expressly and in writing at any time between 8 May 1945 and the effective date of this Law.

3. No report filed pursuant to paragraph 1 by any person shall be considered, in proceedings before a Restitution Authority, as an admission of the reporting party that the property so reported is subject to restitution or as a waiver of any defense he might have had if the report had not been filed. It shall be admissible, however, as an admission of the facts stated therein.

4. The Central Filing Agency upon receiving a report under this Article shall forward a copy of the report to the appropriate Restitution Agency or Agencies in each district in which property affected by the report is situated. All reports filed pursuant to the provisions of this Article shall be open to inspection.

ARTICLE 74

Obligation to Inspect the Land Title Register and Other Public Registers

1. Anyone holding real property or an interest in the nature of real property, shall ascertain by inspection of the Land Title Register whether or not the property in question must be reported. The same shall apply with respect to other property interests which are recorded in any other public register.

2. Whenever a public authority or any other public agency learns of the whereabouts of property which must be reported, it shall report such fact without delay to the Central Filing Agency. Article 73, paragraph 4, shall be applicable.

ARTICLE 75

Penalties

1. Any person who

- (a) intentionally or negligently fails to comply with his duty to report as set forth in Articles 73 and 74; or,
 - (b) knowingly makes any false or misleading statements to the Restitution Authorities,
- shall be punished with imprisonment not exceeding five years, or a fine, or both, unless heavier penalties under any other law are applicable.

2. No penalty shall be imposed in the case of subparagraph (a), where the report required by this Law has been made voluntarily and prior to discovery.

ARTICLE 76

Penalties (continued)

1. Whoever alienates, damages, destroys, or conceals any property coming under the provisions of this Law in order to thwart the rights of a claimant, shall be punished with imprisonment not exceeding five years, or a fine, or both,

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- unless heavier penalties under any other law are applicable.
2. Confinement in a penitentiary up to five years may be imposed in especially serious cases.
 3. The attempt shall be punishable.

ARTICLE 77

Penalties (continued)

In the cases within the scope of Articles 75 and 76, nobody may plead ignorance of facts which he could have ascertained by the inspection of public books and registers, if and to the extent to which Article 74 imposed on him the obligation of such inspection.

EXCERPT FROM REGULATION NO. 1 UNDER MILITARY GOVERNMENT LAW NO. 59

I. Establishment of Central Filing Agency

1. There is hereby established the Central Filing Agency (Zentralanmeldeamt) provided for in Article 55 of Military Government Law No. 59, the mailing address of which is:
Zentralanmeldeamt (Central Filing Agency)
Bad Nauheim, Germany
2. This Agency is hereby vested with all powers and responsibilities which the Central Filing Agency has under the provisions of Military Government Law No. 59. (Section II to IV are omitted.)

APPENDIX B

Outline of Information to be Reported

PART A

Information Concerning the Person Filing the Report, his Attorney or Agent

I. Information Concerning the Person Filing the Report:

1. Last name, first name and middle name (in full).
2. Permanent residence.
3. Present address.
4. Address to which correspondence with the person filing this report, should be sent.

II. Information Concerning the Agent, if any, of the Person Filing the Report:

5. Last name, first name and middle name (in full).
6. Address.
7. Nature of agency (attorney-at-law, attorney-in-fact, guardian, etc.). Attach copies of appropriate documents showing agency.

PART B

Information Concerning Property Reported

I. Information Concerning Present Holder and Location of Property Reported:

8. State whether reporting person is present possessor of property.
9. If not, state full name and address of person presently in possession of property, if known.
10. Present location of property, if known.

II. Real Property and Interests in Real Property:

11. Detailed description of real property or of interest therein.
12. Location of the property.
13. Description of entry of property in Land Title Register (Grundbuch).

III. Business Enterprises:

14. Name and description of the business enterprise.

15. Location of the business enterprise:
 - a. at the time of the acquisition by the person reporting;
 - b. present or last known location.
16. Description of entry in the Commercial Register (Handelsregister).

IV. Securities: (Bonds, shares, etc.)

17. Give an exact description of the type, certificate number, etc. of the security. If an interest in or an obligation of an organization, give name and address of such organization.
18. Give location of the instrument at the time it was acquired by the reporting person, and present or last known location.

V. All Other Personal Property:

19. Give a detailed description of the property involved and all other pertinent information with respect thereto, including location at the time it was acquired by the reporting person and present or last known location.

VI. Any Other Property Not Heretofore Mentioned:

20. Give a detailed description of the property involved and all other pertinent information with respect thereto, including location at the time it was acquired by the reporting person and the present or last known location.

PART C

Statement of Facts Concerning Acquisition of and Disposal of Property

I. Information Concerning Property at the Time of the Acquisition:

21. Date of the acquisition of the property by the reporting person.
22. Full name and address of the person from whom the property was acquired.
23. Exact circumstances under which the reporting person obtained possession of the property.
24. Purchase price specified at the time of the transfer of the property.
25. Any other terms specified at the time of the transfer of the property.
26. What part of the purchase price or consideration was paid or delivered to third persons or agencies and under what circumstances.
27. Value of the property at the time of its acquisition.
28. In case the reporting person, during the time he held the property, was not the sole owner of the property, state names, addresses, as well as legal nature and percentage of interest of all other co-holders of the property.

II. Information Concerning Property Subsequent to Acquisition:

29. Give any facts deemed advisable concerning appreciation or depreciation in the value of the property during the time it was held by the reporting person, including any change in the status of encumbrances against the property.
30. If property was disposed of by reporting person, give name and address of person to whom it was transferred.
31. Date on which the property was transferred.
32. Purchase price paid by the transferee.
33. Other pertinent terms of the contract of transfer.
34. Value of the property at the time of the transfer.

ANNEX XIV

MILITARY GOVERNMENT — GERMANY SUPREME COMMANDER'S AREA OF CONTROL

LAW NO. 77

Amended (1)¹

Suspension of Certain Organizations and Offices concerned with Labor

1. The organizations, agencies and offices listed in the appendix to this law are hereby suspended to the full extent of their present operation in the occupied territory.
2. The Arbeitsgerichte (Labor Courts) are hereby suspended until further directions of the Military Government.
3. All funds, records and property of the organizations, agencies and offices hereby suspended shall be preserved intact by the present custodians thereof for such disposition as may be directed by the Military Government. Pending such directions all such records and property shall be subject to inspection by officers of the Military Government. Officers in charge thereof and administrative officials will remain at their posts, until otherwise directed, and will be responsible to the Military Government for taking all steps to preserve intact and undamaged all such funds, property, equipment, accounts and records and for complying with the directions of Military Government regarding Blocking and Control of Property.
4. Any person violating the provisions of this law shall upon

conviction by Military Government Court, be liable to any lawful punishment, including death, as the court may determine.

This law shall become effective upon the date of its first promulgation.

BY ORDER OF MILITARY GOVERNMENT.

APPENDIX TO LAW NO. 77

Suspension of Certain Organizations and Offices concerned with Labor

APPENDIX

- * Generalbevollmächtigter für den Arbeitseinsatz (Office of the Plenipotentiary for the Employment and Distribution of Labor).
- Reichswohnungskommissar (Office of the Reich Housing Commissioner).
- Reichstreuhänder der Arbeit (Office of the Reich Trustees of Labor).
- Ehrengerichte (Honor Courts).

¹ SHAEF amendment consisted of dropping the following from Appendix to Law No. 77:

- "Sonderbeauftragter für Landwirtschaftliche Arbeiten (Office of the Special Commissioner for Agricultural Labor)
- Auskämm-Kommissionen (Comb-Out Commission)
- Reichsarbeitszeugen (Reich Allocation Engineers)
- Reichsinspektoren (Reich Inspectors)."

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

PROCLAMATION NO. 2 Certain Additional Requirements Imposed on Germany

(Excerpt)

SECTION V

12. The Allied Representatives will exercise such control as they deem necessary over all or any part or aspect of German finance, agriculture (including forestry), production and mining, public utilities, industry, trade, distribution and economy generally, internal and external, and over all related or ancillary matters, including the direction or prohibition of the manufacture, production, construction, treatment, use and disposal of any buildings, establishments, installations, public or private works, plant, equipment, products, materials, stocks or resources. Detailed statements of the subjects to which the present provision applies, together with the requirements of the Allied Representatives in regard thereto, will from time to time be communicated to the German authorities.

13. a) The manufacture, production and construction, and the acquisition from outside Germany, of war material and of such other products used in connection with such manufacture, production or construction, as the Allied Representatives may specify, and the import, export and transit thereof, are prohibited, except as directed by the Allied Representatives.

b) The German authorities will immediately place at the disposal of the Allied Representatives all research, experiment, development and design directly or indirectly relating to war or the production of war material, whether in government or private establishments, factories, technological institutions or elsewhere.

14. a) The property, assets, rights, titles and interests (whether situated inside or outside Germany) of the German State, its political subdivisions, the German Central Bank, State or semi-State, provincial, municipal or local authorities or Nazi organizations, and those situated outside Germany of any person resident or carrying on business in Germany, will not be disposed of in any way whatever without the sanction of the Allied Representatives. The property, assets, rights, titles and interests (whether situated inside or outside Germany), of such private companies, corporations, trusts, cartels, firms, partnerships and associations as may be designated by the Allied Representatives will not be disposed of in any way whatever without the sanction of the Allied Representatives.

b) The German authorities will furnish full information about the property, assets, rights, titles and interests referred to in sub-paragraph a) above and will comply with such directions as the Allied Representatives may give as to their transfer and disposal. Without prejudice to any further demands which may be made in this connection, the German authorities will hold at such times and places as they may direct all securities, certificates, deeds or other documents of title held by any of the institutions or bodies mentioned in sub-paragraph a) above or by any person subject to German Law, and relating to property, assets, rights, titles and interests situated in the territories of the United Nations, including any shares, stocks, debentures or other obligations of any company incorporated in accordance with the laws of any of the United Nations.

c) Property, assets, rights, titles and interests situated inside Germany will not be removed outside Germany or be transferred or disposed of to any person resident or carrying on business outside Germany without the sanction of the Allied Representatives.

d) Nothing in sub-paragraphs a) and b) above shall, as regards property, assets, rights, titles and interests situated inside Germany, be deemed to prevent sales or transfers to persons resident in Germany for the purpose of maintaining or carrying on the day-to-day national life, economy and administration, subject to the provisions of sub-paragraphs 19 b) and c) below and to the provisions of the Declaration or of any proclamations, orders, ordinances or instructions issued thereunder.

15. a) The German authorities and all persons in Germany will hand over to the Allied Representatives all gold and silver, in coin or bullion form, and all platinum in bullion form, situated in Germany, and all such coin and bullion situated outside Germany as is possessed by or held on behalf of any of the institutions or bodies mentioned in sub-paragraph 14 a) above or any person resident or carrying on business in Germany.

b) The German authorities and all persons in Germany will hand over in full to the Allied Representatives all foreign notes and coins in the possession of any German authority, or of any corporation, association or individual resident or carrying on business in Germany, and all monetary tokens issued or prepared for issue by Germany in the territories formerly occupied by her or elsewhere.

16. a) All property, assets, rights, titles and interests in Germany held for or belonging to any country against which any of the United Nations is carrying on hostilities, or held for or belonging to the nationals of any such country, or of any persons resident or carrying on business therein, will be taken under control and will be preserved pending further instructions.

b) All property, assets, rights, titles and interests in Germany held for or belonging to private individuals, private enterprises and companies of those countries, other than Germany and the countries referred to in sub-paragraph a) above, which have at any time since 1st September, 1939, been at war with any of the United Nations, will be taken under control and will be preserved pending further instructions.

c) The German authorities will take all necessary steps to ensure the execution of the provisions of sub-paragraphs a) and b) above, will comply with any instructions given by the Allied Representatives for that purpose, and will afford all necessary information and facilities in connection therewith.

17. a) There shall, on the part of the German authorities and people, be no concealment, destruction, scuttling or dismantling of, removal or transfer of, nor damage to, ships, transport, ports or harbors, nor to any of building, establishment, installation, device, means of production, supply, distribution or communication, plant, equipment, currency, stocks or resources, or, in general, public or private works, utilities or facilities of any kind, wherever situated.

b) There shall be no destruction, removal, concealment, suppression or alteration of any documents, records, patents, drawings, specifications, plans or information, of any nature, affected by the provisions of this document. They shall be kept intact in their present locations until further directions are given. The German authorities will afford all information and facilities as required by the Allied Representatives in connection therewith.

c) Any measures already ordered, undertaken, or begun contrary to the provisions of sub-paragraphs a) and b) above will be immediately countermanded or discontinued. All stocks, equipment, plant, records, patents, documents, drawings, specifications, plans or other material already concealed within or outside Germany will forthwith be declared, and will be dealt with as the Allied Representatives may direct.

d) Subject to the provisions of the Declaration or any proclamations, orders, ordinances or instructions issued thereunder, the German authorities and people will be responsible for the preservation, safeguarding and upkeep of all forms of property and materials affected by any of the said provisions.

e) All transport materials, stores, equipment, plant, establishments, installations, devices and property generally, which are liable to be surrendered or delivered under the Declaration or any proclamations, orders, ordinances or instructions issued thereunder, will be handed over intact and in good condition, or subject only to ordinary wear and tear and to any damage caused during the continuance of hostilities which it has proved impossible to make good.

18. There shall be no financial, commercial or other intercourse with, or dealings with or for the benefit of, countries at war with any of the United Nations, or territories occupied by such countries or with any other country or person specified by the Allied Representatives.

SECTION VI

19. a) The German authorities will carry out, for the benefit of the United Nations, such measures of restitution, reinstatement, restoration, reparation, reconstruction, relief and rehabilitation as the Allied Representatives may prescribe. For these purposes the German authorities will effect or procure the surrender or transfer of such property, assets, rights, titles and interests, effect such deliveries and carry out such repair, building and construction work, whether in Germany or elsewhere, and will provide such transport, plant, equipment and materials of all kinds, labor, personnel, and specialist and other services, for use in Germany or elsewhere, as the Allied Representatives may direct.

b) The German authorities will also comply with all such directions as the Allied Representatives may give relating to property, assets, rights, titles and interests located in Germany belonging to any one of the United Nations or its nationals or having so belonged at, or at any time since, the outbreak of war between Germany and that Nation, or since the occupation of any part of its territories by Germany. The German authorities will be responsible for safeguarding, maintaining, and preventing the disposition of all such property, assets, rights, titles and interests, and for handing them over intact at the demand of the Allied Representatives. For these purposes the German authorities will afford all information and facilities required for tracing any property, assets, rights, titles or interests.

c) All persons in Germany in whose possession such property, assets, rights, titles and interests may be, shall be personally responsible for reporting them and for safeguarding them until they are handed over in such manner as may be prescribed.

20. The German authorities will supply free of cost such German currency as the Allied Representatives may require, and will withdraw and redeem in German currency, within such time limits and on such terms as the Allied Representatives may specify, all holdings in German territory of currencies issued by the Allied Representatives during military operations or occupation, and will hand over the currencies so withdrawn free of cost to the Allied Representatives.

21. The German authorities will comply with all such directions as may be issued by the Allied Representatives for defraying the costs of the provisioning, maintenance, pay, accommodation and transport of the forces and agencies stationed in Germany by authority of the Allied Representatives, the costs of executing the requirements of unconditional surrender, and payment for any relief in whatever form it may be provided by the United Nations.

22. The Allied Representatives will take and make unrestricted use (whether inside or outside Germany) of any articles referred to in paragraph 12 above which the Allied Representatives may require in connection with the conduct of hostilities against any country with which any of their respective Governments is at war.

PROPERTY CONTROL

ANNEX XVI

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

LAW NO. 2

Providing for the Termination and Liquidation of the Nazi Organizations

The Control Council enacts as follows:

ARTICLE I

1. The National Socialist German Labor Party, its formations, affiliated associations and supervised agencies, including paramilitary organizations and all other Nazi institutions established as instruments of party domination are hereby abolished and declared illegal.
2. The Nazi organizations enumerated in the attached Appendix, or which may be added, are expressly abolished.
3. The reforming of any of the organizations named herein, whether under the same or different name is forbidden.

ARTICLE II

All real estates, equipments, funds, accounts, records and other property of the organizations abolished by this law are confiscated. Confiscation is carried out by Military Commands; general directives concerning the distribution of the confiscated property are given by the Control Council.

ARTICLE III

Until such time as the property mentioned is actually placed under the control of the Military Commands all officers and other personnel, including administrative officials and others accountable for such property, are held personally responsible for taking any action necessary to preserve intact all such property and for complying with the orders of the Military Commands regarding such property.

ARTICLE IV

Any person violating any provision of this law shall be liable to criminal prosecution.

Done at Berlin, 10 October 1945.

P. KOENIG

V. D. SOKOLOVSKY

DWIGHT D. EISENHOWER

B. H. ROBERTSON

Lt. General,

for B. L. MONTGOMERY

Appendix

1. Nationalsozialistische Deutsche Arbeiterpartei
2. Partei-Kanzlei
3. Kanzlei des Führers der NSDAP
4. Auslandsorganisation
5. Volksbund für das Deutschtum im Ausland
6. Volksdeutsche Mittelstelle
7. Parteiamtliche Prüfungskommission zum Schutze des NS-Schrifttums
8. Reichsorganisationsleiter der NSDAP
9. Reichsschatzmeister der NSDAP
10. Beauftragter des Führers für die Überwachung der gesamten geistigen und weltanschaulichen Schulung und Erziehung der NSDAP
11. Reichspropagandaleiter der NSDAP
12. Reichsleiter für die Presse und Zentralverlag der NSDAP (Eher Verlag)
13. Reichspresseschef der NSDAP
14. Reichsamt für das Landvolk
15. Hauptamt für Volksgesundheit
16. Hauptamt für Erzieher
17. Hauptamt für Kommunalpolitik
18. Hauptamt für Beamte
19. Beauftragter der NSDAP für alle Volkstumsfragen
20. Rassenpolitisches Amt der NSDAP
21. Amt für Sippenforschung
22. Kolonialpolitisches Amt der NSDAP
23. Außenpolitisches Amt der NSDAP
24. Reichstagsfraktion der NSDAP
25. Reichsfrauenführung
26. NSD-Ärztebund

27. Hauptamt für Technik
28. NS-Bund Deutscher Technik
29. NS-Lehrerbund
30. Reichsbund der Deutschen Beamten
31. Reichskolonialbund
32. NS-Frauenschaft
33. NS-Reichsbund Deutscher Schwestern
34. Deutsches Frauenwerk
35. Reichsstudentenführung
36. NSD-Studentenbund
37. Deutsche Studentenschaft
38. NSD-Dozentenbund
39. NS-Rechtswahrerbund
40. NS-Altherrenbund der Deutschen Studenten
41. Reichsbund Deutsche Familie
42. Deutsche Arbeitsfront
43. NS-Reichsbund für Leibesübungen
44. NS-Reichskriegerbund
45. Reichskulturkammer
46. Deutscher Gemeindetag
47. Geheime Staatspolizei
48. Deutsche Jägerschaft
49. Sachverständigenbeirat für Bevölkerungs- und Rassenpolitik
50. Reichsausschuß zum Schutze des Deutschen Blutes
51. Winterhilfswerk
52. Hauptamt für Kriegsoptionen
53. NSKKV (NS-Kriegsoptionenversorgung)
54. SA (Sturmabteilungen), including the SA-Wehrmannschaften
55. SS (Schutzstaffeln), including the Waffen-SS, the SD (Sicherheitsdienst) and all offices combining command over the police and SS
56. NSKK (NS-Kraftfahrerkorps)
57. NSFK (NS-Fliegerkorps)
58. HJ (Hitler-Jugend), including its subsidiary organizations
59. RAD (Reichsarbeitsdienst)
60. OT (Organisation Todt)
61. TENO (Technische Nothilfe)
62. Nationalsozialistische Volkswohlfahrt

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

LAW NO. 58

Supplement to Appendix to Control Council Law No. 2 Providing for the Termination and Liquidation of Nazi Organizations

THE CONTROL COUNCIL ENACTS AS FOLLOWS:

ARTICLE I

In accordance with Paragraph 2 of Article I of Control Council Law No. 2, the following is added to the Appendix thereto as item 63:

"Government Group of Public Survey Engineers
(Reichsgruppe der öffentlich bestellten Vermessungs-
ingenieure)"

ARTICLE II

This Law shall become effective on 6 September 1947 at 1800 hrs.

Done at Berlin on 30 August 1947.

LUCIUS D. CLAY,
General

Sir SHOLTO DOUGLAS,
Marshal of the Royal Air Force

P. KOENIG,
Général d'Armée

V. SOKOLOVSKY,
Marshal of the Soviet Union

PROPERTY CONTROL

ANNEX XVII.

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

LAW NO. 5

Vesting and Marshalling of German External Assets

Whereas the Control Council is determined to assume control of all German assets abroad and to divert the said assets of their German ownership with the intention thereby of promoting international peace, and collective security by the elimination of German war potentials.

Now, therefore, the Control Council, in accordance with the decisions of the Potsdam Conference and the political and economic principles by which it is necessary to be guided in dealing with this problem, enacts as follows:

ARTICLE I

A German External Property Commission (hereinafter referred to as "the Commission") composed of representatives of the Four Occupying Powers in Germany is hereby constituted.

For the purpose of carrying out the provisions of this Law the Commission is constituted as an inter-governmental agency of the Control Council vested with all the necessary powers and authority.

ARTICLE II

All rights, titles and interests in respect of any property outside Germany which is owned or controlled by any person of German nationality inside Germany are hereby vested in the Commission.

ARTICLE III

All rights, titles and interests in respect of any property outside Germany which is owned or controlled by any person of German nationality outside Germany or by any branch of any business or corporation or other legal entity organized under the laws of Germany or having its principal place of business in Germany are hereby vested in the Commission.

For the purpose of this Article the term "any person of German Nationality outside Germany" shall apply only to a person who has enjoyed full rights of German citizenship under Reich Law at any time since 1 September 1939 and who has at any time since 1 September 1939 been within any territory then under the control of the Reich Government but shall not apply to any citizen of any country annexed or claimed to have been annexed by Germany since 31 December 1937.

ARTICLE IV

The Commission has power by unanimous agreement from time to time to add to the categories of persons to be affected by Articles II and III of this Law unless such addition is vetoed by the Control Council within 30 days of agreement by the Commission.

ARTICLE V

The question of whether or not any compensation shall be paid to any person whose right, title or interest in any property has been vested in accordance with this Law will be decided at such time and in such manner as the Control Council may in the future determine.

ARTICLE VI

The right, title and interest to all property, title to which has been vested in the Commission under this Law, or the proceeds of such property shall be held by the Commission and disposed of pursuant to such further directives as the Control Council may issue from time to time.

ARTICLE VII

In addition to the general powers contained in Article I of this Law the Commission shall be vested with the following specific powers which it may exercise directly or through any agency which it deems appropriate:

- to do all acts which it deems necessary or appropriate to obtain possession or control over all property, the right, title or interest in which is vested in the Commission under this Law;
- to operate, control and otherwise exercise complete dominion over all such property, including, where this is essential to the preservation of the value represented by the property, the sale, liquidation or other disposal thereof subject to the provisions of Article VI;
- to require the keeping of full records, and to seize or require the production of any books of account, records, contracts, letters, memoranda, or other papers relating to any property affected by this Law and to compel the attendance of witnesses and to require the furnishing of full information regarding such property;
- to require information, evidence and records with regard to any property outside Germany, in whole or in part, of all

persons covered by Articles II and III hereof.

ARTICLE VIII

The work within any zone of occupation of marshalling and recording the evidence with respect to Germany's external assets shall be the responsibility of the Commander-in-Chief for that zone.

The Commission may request Zone Commanders to conduct certain investigations either alone or in conjunction with investigations being conducted in other zones, and, further, may itself conduct joint investigations in cases where the evidence is contained in more than one zone subject to the authority of the Commander-in-Chief in any zone in which such joint investigation is being conducted.

ARTICLE IX

Articles II and III of this Law shall not apply to assets subject to the jurisdiction of the United Kingdom, British Dominions, India, Colonies and Possessions, the Union of Soviet Socialist Republics, the United States, France and any other United Nations determined by the Control Council.

ARTICLE X

For the purpose of this Law:

a) The term "person" shall include any natural person or collective person or any juridical person or entity under public or private law having legal capacity to acquire, use, control or dispose of property or interests therein; and any government including all political sub-divisions, public corporations, agencies and any instrumentalities thereof. Any juridical person or entity which is organized under the laws of, or has its principal place of business in Germany shall be deemed to be a person of German nationality within the meaning of Article II hereof.

b) The term "property" shall include all movable and immovable property and all rights and interests in or claims to such property whether matured or not, including all property, rights, interests or claims transferred to or held by third parties as nominees or trustees, and all property, rights, interests or claims transferred by way of gift or otherwise or for consideration, express or implied, but not including the rights or interests of third parties to a bona fide sale for full consideration, and shall include but shall not be limited to buildings and lands, goods, wares and merchandise, chattels, coin, bullion, currency, deposits, accounts or debts shares, claims, bills of lading, warehouse receipts, all kinds of financial instruments whether expressed in Reichsmarks or in any foreign currency, evidences of indebtedness or ownership of property, contracts, judgments, rights in or with respect to patents, copyrights, trademarks, etc., and in general property of any nature whatsoever.

ARTICLE XI

It shall be an offense:

a) For any person whose property is affected by this Law to do or to attempt to do any act or make any omission in derogation of the title or interest of the Commission under Articles II and III, or

b) To assist or conspire with any other person to do or to attempt to do any such act or make such omissions as are specified in this Article.

ARTICLE XII

Any person violating any provision of this Law shall be liable to criminal prosecution.

ARTICLE XIII

All provisions of laws or decrees or parts therewith which are contradictory to any one of the provisions of this Law or of any law or decree issued under the provisions of this Law are hereby declared null and void.

Done at Berlin, 30 October 1945.

P. KOENIG
Général de Corps d'Armée

G. ZHUKOV
Marshal of the Soviet Union

DWIGHT D. EISENHOWER
General of the Army

B. L. MONTGOMERY
Field Marshal

PROPERTY CONTROL

ANNEX XVIII

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

LAW NO. 9

Providing for the Seizure of Property owned by I. G. Farbenindustrie and the Control thereof

In order to insure that Germany will never again threaten her neighbors or the peace of the world, and taking into consideration that I. G. Farbenindustrie knowingly and prominently engaged in building up and maintaining the German war potential, the Control Council enacts as follows:

ARTICLE I

All plants, properties and assets of any nature situated in Germany which were, on or after 8 May, 1945, owned or controlled by I. G. Farbenindustrie A. G., are hereby seized by and the legal title thereto is vested in the Control Council.

ARTICLE II

In order to control the seized plants, properties and assets which belonged to I. G. Farbenindustrie, there shall be created a Committee consisting of four Control Officers appointed by the respective Zone Commanders. Policies agreed upon by the Committee on behalf of the Control Council shall be implemented in each Zone by the Zone Commander, acting through his Control Officer.

ARTICLE III

The Committee shall accomplish the following ultimate objectives in respect of the plants, properties, assets and activities of I. G. Farbenindustrie A. G.:

- a) Making certain plants and assets available for reparations;
- b) Destruction of certain plants used exclusively for war-making purposes;
- c) Dispersion of ownership of remaining plants and assets;
- d) Termination of cartel relationships;
- e) Control of research;
- f) Control of production activities.

Plants reported by the Committee as available for reparations or for destruction shall be processed through the normal channels.

ARTICLE IV

All acts and things heretofore done or performed by the Zone Commanders and their respective Control Officers in connection with the management, direction and control of I. G. Farbenindustrie A. G. in their respective Zones, are hereby ratified, approved and confirmed.

Done at Berlin, 30 November, 1945.

G. ZHUKOV
Marshal of the Soviet Union
J. T. McNARNEY
General
B. L. MONTGOMERY
Field Marshal
P. KOENIG
Général de Corps d'Armée

ANNEX XIX

ALLIED CONTROL COUNCIL LAW NO. 10

Punishment of Persons Guilty of War Crimes, Crimes against Peace and against Humanity

(Excerpt)

Article II

"3. Any person found guilty of any of the crimes above mentioned may upon conviction be punished as shall be determined by the tribunal to be just. Such punishment may consist of one or more of the following:

- a) Death.
- b) Imprisonment for life or a term of years, with or without hard labor.
- c) Fine, and imprisonment with or without hard labor, in lieu thereof.
- d) Forfeiture of property.
- e) Restitution of property wrongfully acquired.
- f) Deprivation of some or all civil rights.

Any property declared to be forfeited or the restitution of which is ordered by the tribunal shall be delivered to the Control Council for Germany, which shall decide on its disposal."

JULY 1949

PROPERTY CONTROL

ANNEX XX

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

LAW NO. 46

Abolition of the State of Prussia

The Prussian State which from early days has been a bearer of militarism and reaction in Germany has de facto ceased to exist. Guided by the interests of preservation of peace and security of peoples and with the desire to assure further reconstruction of the political life of Germany on a democratic basis, the Control Council enacts as follows:

ARTICLE I

The Prussian State together with its central government and all its agencies is abolished.

ARTICLE II

Territories which were a part of the Prussian State and which are at present under the supreme authority of the Control Council will receive the status of Länder or will be absorbed into Länder.

The provision of this Article is subject to such revision and other provisions as may be agreed upon by the Allied Control Authority, or as may be laid down in the future Constitution of Germany.

ARTICLE III

The State and administrative functions as well as the assets and liabilities of the former Prussian State will be transferred to appropriate Länder, subject to such agreements as may be necessary and made by the Allied Control Authority.

ARTICLE IV

This law becomes effective on the day of its signature.

Done at Berlin on 25 February 1947.

P. KOENIG,
Général d'Armée

V. SOKOLOVSKY,
Marshall of the Soviet Union

LUCIUS D. CLAY
for JOSEPH T. McNARNEY,
General

B. H. ROBERTSON
for SIR SHOLTO DOUGLAS
Marshal of the Royal Air Force

ANNEX XXI

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

DIRECTIVE NO. 50

Disposition of Property Having Belonged to Organizations Listed in Control Council Proclamation No. 2 and Control Council Law No. 2

The Control Council, in accordance with Section I of Control Council Proclamation No. 2 and Control Council Law No. 2, directs as follows: —

ARTICLE I

Except as provided by Article IX of this directive, all property in Germany of whatever nature having belonged to the Nazi organizations and to the military and para-military organizations referred to in Section I of Control Council Proclamation No. 2 and Article I and the Appendix to Control Council Law No. 2 shall be disposed of as provided by this directive.

ARTICLE II

1. Title to property not subject to disposal or use under Article VIII having belonged to a trade union, cooperative, political party or any other democratic organization before it became the property of any organization referred to in Article I hereof, shall be retransferred to such organization provided that it is authorized and its activities are approved by the appropriate Zone Commander.

2. Where retransfer of title to property cannot be made because no existing organization is completely identical with the organization which was the former owner of the property, title to such property shall be transferred to a new organization or organizations whose aims are found by the Zone Commander to be similar to those of the former organization.

ARTICLE III

Property, not subject to disposal or use under Article VIII formerly devoted to relief, charitable, religious or humanitarian purposes, shall be disposed of or used so as to preserve its former character if consonant with democratic principles and shall be transferred to the organization or organizations formerly holding title thereto or to a new organization or organizations provided, in the latter case, that the Zone Commander finds that the aims and the purposes of the new organization or organizations are similar to those of the old organization and conform to the principle of the democratization of Germany, or shall, at the discretion of the Zone Commander, be transferred to the Länder or Provinces subject to the same conditions with respect to disposition or use.

ARTICLE IV

Property transferred in accordance with Articles II and III above shall be transferred without charge except that the Zone Commanders may, within their discretion, require the transferee to pay or to assume liability for any or all debts or for any accretion in value of the property in accordance with the same principles as are established in the case of property subject to restitution within Germany to victims of Nazi persecution.

ARTICLE V

1. Title to property not subject to disposal or use under Article VIII or to restoration, or transfer pursuant to the provisions of Articles II and III hereof, or which is rejected by organizations referred to in Articles II and III hereof, shall be transferred by

the Zone Commander on behalf of the Allied Control Authority to the Government of the Land or Province in which it is located.

2. The Government of the Land or Province may hold and use the property or transfer its use to any administrative district (Kreis or Bezirk) or to a municipality (Gemeinde) within its jurisdiction. The use to which the property is put must fall within the competence of the holder or the transferee and must not be in the opinion of the Zone Commander an improper use of the property.

3. The government of the Land or Province where the property is situated shall, pursuant to this directive and to the regulations of the Zone Commander, sell any property not held and used in accordance with paragraph 2 of this Article. The net proceeds of any such sale shall be accounted for in the budget of the Land or Province concerned.

4. The government of the Land or Province shall, regardless of whether it holds, transfers, or sells the property in accordance with the provisions of this Article, remain responsible for insuring that the property is not used for any purpose which the Zone Commander finds to be inappropriate.

5. Specific charges and encumbrances, whether incurred prior or subsequent to confiscation under Control Council Law No. 2, on properties transferred under this Article shall devolve on the receiving Land or Province up to an amount not exceeding the value of the property transferred.

6. A Land or Province shall accept a contingent liability for such of the debts of any organization whose property it receives under this Article as are ultimately determined to be payable under principles to be established by the Allied Control Authority. This liability shall never exceed the value of the property received by the Land or Province from the said organization, taking into account any encumbrances on that property. The debts to be paid by the Land or Province under this paragraph shall include only the balance which remains after all other funds of the organization have been utilized in the payment of its debts. Such balance of indebtedness shall be distributed amongst all Länder and Provinces proportionately to the value of the property of such organization received by each Land or Province, but it shall not be required that this liability shall be discharged until further directions shall have been issued by the Allied Control Authority, nor that any debt shall be discharged in violation of any principle established by the Allied Control Authority and particularly debts shall not be paid in such manner as to compensate the supporters of the Nazi party and regime.

ARTICLE VI

Zone Commanders, and in Berlin, Sector Commanders, shall take measures to ensure the disposition and the use of the property in accordance with this Directive.

ARTICLE VII

Title to property located in Berlin will be transferred to the administrative districts (Verwaltungsbezirke) and be disposed of according to the same principles as are herein prescribed for property in the rest of Germany. For this purpose, the powers given to Zone Commanders in regard to property in other parts of Germany will in Berlin be exercised by the respective Sector Commanders. The functions, powers and liabilities placed upon the government of a Land or Province in regard to property in other parts of Germany will in regard to property in Berlin devolve upon the respective administrative districts (Verwaltungsbezirke).

ARTICLE VIII

JULY 1949

PROPERTY CONTROL

1. The Zone Commander shall destroy property subject to being destroyed as war potential, designate for reparations property subject to reparations, use for the purpose of occupation property subject to such use and restitution,

a. to the government concerned, property subject to restitution under the Allied Control Authority definition of restitution,

b. property of victims of Nazi persecution; in the same way as similar property which is not the property of any organizations referred to in Article I hereof.

2. In order to accomplish the purposes of this Article, the Zone Commander may, at any time, set aside or modify any transactions or measures with respect to property transferred pursuant to this Directive, which he deems inconsistent with the purpose and spirit of this Directive.

ARTICLE IX

The following categories of property are exempt from the operation of this Directive: —

- (1) securities, cash accounts and monetary claims of the organizations referred to in Article I; these properties shall remain blocked until further decision of the Allied Control Authority:

- (2) property formerly owned by enemy, other than German, nationals or organizations;
- (3) property of the Reich, including property of Reich organizations; covered by Section I of Proclamation No. 2;
- (4) property of insurance companies connected with the Deutsche Arbeitsfront.

ARTICLE X

This directive shall come into force on the day of its signature.

Done at Berlin on 29 April 1947.

F. A. KEATING
Major General

N. C. D. BROWNJOHN
Major General
for B. H. ROBERTSON
Lieutenant General

P. NOIRET
Major General

P. A. KUROCHKIN
Colonel General

ANNEX XXII

ALLIED CONTROL AUTHORITY CONTROL COUNCIL

DIRECTIVE NO. 57

Disposition of Property Confiscated Under Control Council Law No. 10 (MGR 23-121.10) or Legislation Issued Pursuant to Control Council Directive No. 38 (MGR 23-161.38)

Pursuant to Control Council Law No. 10 (MGR 23-121.10) and Control Council Directive No. 38 (MGR 23-161.38), the Control Council directs as follows:

ARTICLE I

All property in Germany of whatever nature arising from the confiscation of property suffered by persons under Control Council Law No. 10 or legislation issued pursuant to Control Council Directive No. 38, shall be disposed of as provided by this Directive.

ARTICLE II

1. Title to property not subject to disposal or use under Article IX having belonged to a trade union, cooperative, political party, or any other democratic organization before it became the property of any person referred to in Article I hereof shall be transferred to such organization provided that it is authorized and its activities are approved by the appropriate Zone Commander.

2. Where retransfer of title to property cannot be made because no existing organization is completely identical with the organization which was the former owner of the property, the title to such property shall be transferred to a new organization or organizations whose aims are found by the Zone Commander to be similar to those of the former organization.

ARTICLE III

Property not subject to disposal or use under Article IX formerly devoted to relief, charitable, religious or humanitarian purposes, shall be disposed of or used so as to preserve its former character if consonant with democratic principles, and for this purpose shall be transferred to the organizations formerly holding title thereto or to a new organization or organizations on condition that, in the latter case, the Zone Commander finds that the aims and purposes of these organizations are similar to those of the old organization and conform to the principle of the democratization of Germany or may, at the discretion of the Zone Commander, be transferred to the Länder or Provinces, subject to the same conditions with respect to disposition or use.

ARTICLE IV

Property transferred in accordance with Articles II and III above shall be transferred without charge, except that the Zone Commanders may, within their discretion, require that the transferee pay or assume liability for any or all debts or any accretion in value of the property in accordance with the same principles as are established in the case of property subject to restitution within Germany to victims of Nazi persecution.

ARTICLE V

1. Title to property not subject to disposal or use under Article IX or to restoration or transfer pursuant to the provisions of Articles II and III hereof, or which is rejected by organizations referred to in Articles II and III hereof shall be transferred to the Government of the Land or Province in which it is located.

2. The Government of the Land or Province may hold and use the property or transfer its use to any administrative district

(Kreis or Bezirk) or to a municipality (Gemeinde) within its jurisdiction. The use to which the property is put must fall within the competence of the holder or the transferee and must not be in the opinion of the Zone Commander an improper or unauthorized use of the property.

3. The Government of the Land or Province where the property is situated shall, pursuant to this directive and to the regulations of the Zone Commander, sell any property not held and used in accordance with paragraph 2 of this Article. The net proceeds of any such sale shall be accounted for in the budget of the Land or Province concerned, to be expended in a manner which, in the opinion of the Zone Commander, is not an improper or unauthorized use of the proceeds.

4. The Government of the Land or Province shall, regardless of whether it holds, transfers, or sells the property in accordance with the provisions of this Article, remain responsible for insuring that the property is not used for any purpose which the Zone Commander finds to be inappropriate.

5. When title to the property is transferred to the Land or Province,

a. Specific charges and encumbrances, whether incurred prior or subsequent to confiscation, on properties transferred under this Article shall devolve on the receiving Land or Province up to an amount not exceeding the value of the property transferred, and

b. The receiving Land or Province shall accept liability for the debts of any person whose property it receives under this Article provided, however, that this liability shall not exceed the value of the property of such person received by the Land or Province, taking into account any encumbrances on that property and provided further that in the case of partial confiscation of property no liability for debts, under this paragraph, shall attach until creditors have exhausted all remedies against the person whose property was partially confiscated. The total of such payments of debts of a person for which it has accepted responsibility, shall ultimately be borne by the Governments of the Land or Provinces receiving the property proportionately to the value of the property of such person received by each Land or Province, but it shall not be required that this liability shall be discharged until further directions shall have been issued by the Allied Control Authority, nor that any debts shall be discharged in violation of any principle established by the Allied Control Authority and particularly debts shall not be paid in such manner as to compensate the supporters of the Nazi Party and Regime.

ARTICLE VI

The Zone Commander and in Berlin, Sector Commanders, shall take measures to ensure the disposition and use of the property in accordance with this Directive.

ARTICLE VII

Title to property located in Berlin will be transferred to the administrative districts (Verwaltungsbezirke) and shall be disposed of according to the same principles as are herein prescribed for property for the rest of Germany. For this purpose, the powers given to the Zone Commanders will in Berlin be exercised by the respective Sector Commanders. The functions, powers, and obligations placed upon the Government of a Land or Province will in regard to property in Berlin devolve upon the respective administrative districts (Verwaltungsbezirke).

ARTICLE VIII

1. When an order involving confiscation of property has been made against any person either by a tribunal empowered under Control Council Law No. 10 (MGR 23-121.10) or under procedure lawfully established under Control Council Directive No. 38

JULY 1949

PROPERTY CONTROL

(MUK 23-16138), the following course shall be observed in each of the four zones:

- a. When an order of this kind has been made and has become final, a copy of it shall be transmitted to each of the four zones and sectors, annexing an inventory describing the property of the convicted person in each of the four zones so far as it is known to it.
- b. On receipt of this copy and the inventory, copies thereof will be transmitted to all the Land Governments in whose jurisdiction any property of the person subject to the order is situated.
- c. The Land Government or Governments concerned shall proceed forthwith to confiscate the property. In the event of partial confiscation of property any Land or Province within the area of original jurisdiction shall take the proper percentage of property from the person's property within its jurisdiction and each other Land or Province outside such area in which other property of the person is located shall have the right under the above rules to confiscate up to the same proportion of his property under its jurisdiction.
2. When the order imposes a fine, that fine will, in the first instance, be levied upon property situated in the Land or Province in which the order has been passed; in the second instance, it will be levied on the property in any other Land or Province of the Zone in which the order has been passed. If any balance remains unpaid, it will be levied in the Land or Province in which the largest amount of the property of the person subject to the order is situated, notice of such fine and of the property of the person convicted being transmitted to the other zones and sectors in the same manner as provided by section 1 a above.
3. Nothing in this Article shall prevent the person against whom an order has been made from being subjected to further penalties by a new order based on new charges and evidence.
4. All accruals under sub-sections (1)-(3) of this Article shall be treated as if they were property governed by Article II, III, V and IX of this Directive.

ARTICLE IX

1. The Zone Commander shall destroy property subject to being destroyed as war potential, designate for reparations property subject to reparations, use for the purposes of occupation property subject to such use, and restitute:
 - a. to the Government concerned, property subject to restitution under the Allied Control Authority definition of restitution;
 - b. property of victims of Nazi persecution, in the same way as similar property not included among that of the persons referred to in Article I of this Directive.
2. In order to accomplish the purpose of this Article, the Zone Commander may at any time, set aside or modify any transactions or measures with respect to property transferred pursuant to this Directive, which he deems inconsistent with the aims and spirit of this Directive.

ARTICLE X

The present Directive comes into force from the date of signature.

Done at Berlin, the 15th day of January 1948.

N. C. D. BROWNJOHN
Major General

R. NOIRET
Général de Division

G. S. LUKIANCHENKO
Lieutenant General
for M. I. DRATVIN
Lieutenant General

GEORGE P. HAYS
Major General

JULY 1949

OCCUPIED AREAS OF GERMANY

WITH ZONES AND LAENDER

